ROME, N. Y.
SENTINEL
Cir. D. 10,638
AUG 8 1945

False Imprisonment Redress

Those two recent cases in this state in which a white man on the one hand and a Negro on the other have suffered imprisonment as a result of mistaken identification, have served to bring to light the enactment as recently as 1942 of legislation making it possible for such victims of the law's errors to obtain monetary redress through a suit in the State Court of Claims. The provision reads: "To hear and determine the claim of any person for damages against the state who is hereafter convicted of any felony or misdemeanor against the state and is sentenced to imprisonment and who after having served all or any part of his sentence, shall receive a pardon from the governor stating that such pardon is issued on the ground of innocence of the crime for which he was sentenced."

Julien Cornell, claiming to have been instrumental in securing the passage of this section 9 of the Court of Claims Act with the backing of the American Civil Liberties Union, first remarks that a similar law permits suit in the United States Court of Claims for damages by persons falsely convicted of a federal crime, but limits the amount to be awarded to $5,000. He tells us also that "less adequate laws" exist in California, North Dakota and Wisconsin; but in other states the efforts of the Union failed to gain any support. It seemed to be felt that cases of false imprisonment are few.

One is led to wonder whether the law ought not to provide definite recompense for such wrong-treatment, apportioned according to the length of time improperly served. For how shall a judge or a jury either adequately recompense a victim of false arrest and imprisonment or differentiate between one such victim and another? Take from one to ten or twenty years out of a man's life and who shall say what the damage?

Clear Nisei Terrorists On Supremacy Plea

5-12-45
Pittsburgh Courier, Pa.

AUBURN, Calif.—On a defense attorney's plea that "this is a white man's country" and "white supremacy should be affirmed," a Merced County jury recently returned a "not guilty" verdict against three defendants charged with arson and illegal use of explosives in two raids on the ranch of Sumio Doi, 26, a Japanese-American, last January.

Two of the defendants, Elmer and Alvin Johnson, were AWOL Army privates. The third was James E. Watson. All three are white Americans. Floyd Bowers, attorney for the defense, made no attempt to refute the charges against the white men, and used the infamous Bataan Death March and other Japanese atrocities as extenuating circumstances in the defense of the men.

As charged by the district attorney, the case stood on its merits of law enforcement. Bowers asked the jury for "white man's justice," and apparently got it—to the satisfaction of the several hundred spectators, who cheered the verdict.

NISEI'S BROTHERS GIs

Sumio Doi returned to his home last January from a War Relocation camp in Colorado, and has two brothers serving with the Armed Forces in Europe.

Facts in the case were that on the night of Jan. 18, a number of men drove up to the Doi farm, got out, sprinkled gasoline on the roof of a shed, struck a match to it and departed. The Dois beat out the flames. The next night dynamite was placed under the packing shed, but it failed to go off.

Several days later, James E. Watson, 38, and the Johnson brothers, whose ages are 20 and 18, both AWOL from the Army, confessed to authorities they fired the shed and attempted the dynamiting.

Beginning deliberations at 11:20 o'clock on the morning of the acquittal of the trio, the jury left for lunch at noon-time, returned to deliberations afterwards, and in a total of two hours, returned their verdict at the request of the defense attorney for "white man's justice."

tenced to die in the electric chair at Tattnall prison on Sept. 28, while Wyman Daniel, her husband, was sentence to life in prison.

According to testimony, the Daniels and Louise Knowles had engage in an argument prior to the night whden Daniels went and got his wife and urged her to stab the Knowles woman fatally near a busy intersection.

* * *

Eddie Heywood Freed On Reefer Charge

LOS ANGELES. — Eddie Heywood, noted small musical combo leader, was freed here Wednesday of charges of possession and use of marihuana.

The band leader was arrested two months ago along with his bass player, John Simmons, while seated in the latter's expensive Cadillac car in front of Billy Berg's Rhythm club where they were employed in Hollywood.

At the time of his arrest Heywood vigorously protested and denied ever being a user of the drug. Simmons is reported to have confessed possession and use of the stuff, an implicated Heywood as having joined him in "lighting up."

Because of an early association between Heywood an Simmons, the band leader was loathe to get rid of Simmons pending outcome of the trial. He was dismissed only a short time ago when he failed to show up on the job.

Heywood said. "I recognize Johnny as one of the best bass men in the country. He helped me start my band, and I owe a lot to him. Whatever happens to him, I want him to know he can count on me for aid." Simmons comes up for sentence this week.

NATIONAL ROUNDUP

Benny Carter Beats Realty Ban

Chicago Defender (Ill.)
8-18-45

LOS ANGELES. (ANP) — Benny Carter, nationally known band leader, and his wife, Inez, won the right Monday to own and use their home without restriction in a race ban case that attracted national attention.

The decision was handed down by Superior Judge Reuben S. Schmidt in the Carter case and in a companion case, involving Mr. & Mrs. Mathew Williams.

Pacts Are Held Unconstitutional

The Afro American
Baltimore MD.
12-15-45

Calif. Judge Decides Owners May Remain

DECISION LAUDED

Whites Sought to Oust Movie Stars From Area

LOS ANGELES.—Hailed as a decision of far-reaching importance, Superior Judge Thurmond Clark Thursday ruled that racial restrictive covenants are in direct violation of the United States Constitution.

The edict was handed down in the case of Blueberry Hill involving Hattie McDaniels, Louise Beavers, Juan Tizol, Russell Smith and 34 other well known business and professional people.

An appeal to the State and United States Supreme Courts was expected, according to Loren Miller, attorney, who represented the defendants in the action.

Mr. Miller jubilantly hailed the decision as the first of its kind in the United States, asserting that it should set the pattern outlawing residential restrictive pacts all over the country. 12-15-45

Judge Explains Action

In handing down his decision, Judge Clark said:

"Colored people too long have been deprived of their constitutional rights. They were not denied these rights when they were called to defend their country. It is time some court intervened to protect their rights."

Legal darts first began to fly some four years ago when colored people began purchasing property in the area as the result of overcrowded east side housing conditions. Two years ago the case flared out into the open.

At that time Sidney P. Jones, real estate dealer, and bandleader Benny Carter and several others were threatened with ouster suits.

The case, because of the large number of families which faced ouster and the comparatively few white persons seeking to enforce old and unused racial covenants, attracted widespread attention among legal authorities all over the country, since several similar cases are pending in several major communities. 12-15-45

Challenge to Government

Mr. Miller, in raising the constitutional issue, asserted that the form of covenant restrictions goes right to the roots of American government.

Judge Clark, who handed down the favorable decision, has a reputation for fairness in handling interracial cases, and is known for his penchant for cutting through legal technicalities and viewing the facts in the light of social justice.

In addition to those already named, other defendants in the suit were:

The Rev. Joseph A. Alexander, Dr. William E. Bailey, Lt. Leslie W. King, Dr. J. A. Somerville, Henry T. Elmore, Charles H. Davis, Alfred Green, Hallie D. Johnson, Joseph M. Edwards, James E. Pickett, Adretta Pitts, Nellie E. Venerable, William H. Normett, Emilie J. Bouttee, Mariah F. Stevens.

Also Horace P. Clark, Russell Smith, Mrs. Chloe Downey, D. L. Harrel, Dr. W. Clyde Allem, Arthur Twyne, and Oswald Hylton.

Eight others were served with eviction notices in addition to these with nearly a hundred families in all being affected by the decision. 12-15-45

Of these others affected, but not served with ouster papers, were Ethel Waters and Norman O. Houston, recently elected president of the Golden State Insurance Co.

20a-1945

Rev. Graham Brings Action In Fla. Court

Pittsburgh Courier

3-24-45

JACKSONVILLE, Fla. — Circuit Court Judge Bayard B. Shields last week ordered Fleming Bowden, county supervisor of registration, to register the Rev. Dallas J. Graham, pastor of Mt. Ararat Baptist Church and embalmer with the James H. Whittington Funeral Home, as a member of the Democratic party or to appear on March 2 to show why he refused to do so.

The mandamus writ, served on Bowden by Sheriff Rex Sweat, said that on March 1 Bowden refused to register Rev. Mr. Graham as a member of the party of his choice. The writ said the Rev. Mr. Graham was a qualified elector and desired to vote in the city Democratic primaries of April 17 and May 1, and general election of June 19. Bowden said he has had "quite a number of requests from Negroes to be registered as Democrats," and declared he would continue to refuse to register the Rev Mr. Graham as a Democrat.

CALLED TEST CASE

He said he would go into conference with J. Henry Blount, county attorney, at once. The hearing on the case will be held at 10 o'clock March 26, with Attorney E. K. McIlrath, prominent local lawyer. A similar hearing by the Palm Beach County Circuit Court will be held March 22.

Persons close to the situation which has arisen since registration books were opened in January held the opinion that the action brought by the Rev. Mr. Graham was a "test case" that would reach the State Supreme Court, if not the U. S. Supreme Court. Last month Florida's Attorney General Tom Watson told Florida Democratic leaders that Negro voting in their primary elections "is not inevitable." He stated also that the South has got to let the Negro vote.

Boat Company Fined For Ejecting Negro

Chicago Defender

Chicago Ill.

DETROIT, Mich. — Michigan's Bob-Lo Excursion Company received a lesson in U. S. civil rights this week. 12-1-45

Charged with forcibly ejecting Miss Sarah Ray, 24, from one of its boats, the company was found guilty of violating the civil rights law and was fined $25 with a 20-day stay of sentence pending a new trial. Recorder's Judge John T. Maher pronounced the sentence.

When asked by the irate defendant, "What in God's world does the civil rights statute seek?" Judge Maher answered, "It seeks to see that all God's children have equal rights in Michigan."

Miss Ray charged that on June 21, she was forcibly ejected from the Bob-Lo boat by Robert E. Devereaux, assistant general manager of the company.

The alleged incident occurred when a group of students of the Cass Commerce Ordnance class went for a cruise. Tickets for the group were purchased by a member of the class.

Miss Ray was on the boat when she was forced to leave.

Judge Maher ruled that the company was "discriminatory because of color." 12-1-45

Fla Court Outlaws White Primaries

AFRO-American Md.

Pair Win Right to Register as Democrats

APPEAL THREATENED

2-17-45

Case Sets Precedent in Fight for Ballot

PENSACOLA, Fla.—R. A. Cromwell and Esau Chavis, the latter formerly registered as a Republican, won the right to register as Democrats and vote as members of the Escambia County Democratic party when a writ of mandamus was issued last week by Circuit Judge J. L. Fabisinski.

The writ, ordering Ben L. Davis, Escambia registration officer, to register the two men as Democrats, was opposed by the State Democratic Executive Committee and Attorney General A. Tom Watson. 2-17-45

Asked to Change Affiliation

Mr. Chavis, a former Republican, requested a change of affiliation, while Mr. Cromwell never was registered before. Both had attempted to register as Democrats last December, but were refused by Registrar Davis.

A. Morley Barbey, white, attorney for the Democratic State Committee, announced that he would appeal the decision of Judge Fabisinski, the first in the State on the right of colored Americans to register as Democrats, to the Supreme Court.

Florida

Fla. Judge Rules Race Bar Illegal

Chicago Defender Chicago, Ill.

MIAMI.—(ANP)—The Dade County Commission is without authority to impose zoning regulations on a racial basis, Circuit Judge Stanley Milledge ruled last week.

Judge Milledge's ruling was issued in habeas corpus proceedings brought on behalf of two Negro couples, Mr. and Mrs. Felton and Willie Mae Coleman and Jack and Claudia Wilson, who had been held for moving into premises zoned for occupancy by whites. They were ordered released by Judge Milledge.

The premises occupied by the two couples are in Causeway park.

Informations filed against the couples are based on chapter 17833, general laws of Florida, which seeks to prohibit Negroes from "willfully and unlawfully" moving into premises zoned for white occupancy." 12-1-45

E. F. B. Brigham, who appeared for the two couples at the hearing before Judge Milledge, argued the zoning regulation is in violation of 14th amendment to the United States Constitution and the declaration of rights of the Florida constitution. He also contended Florida law does not authorize the commissioners to designate in what areas members of races may reside and the commission has no authority to make it a penal offense to reside in such areas.

Violates 14th Amendment

Florida Racial Zoning Law Declared Invalid

The Pittsburgh Courier

Pittsburgh Pa.

12-9-45

MIAMI, Fla.—Circuit Court Judge Stanley Milledge ruled here last week that Dade County, which includes the city of Miami, is without legal authority to impose any racial basis. Judge Milledge's ruling was issued in habeas corpus proceedings brought on behalf of two Negro couples who had been held on charges of "willfully and unlawfully moving into premises zoned for white occupancy."

The two couples, Mr. and Mrs. Felton Coleman and Mr. and Mrs. Jack Wilson, were arrested under the Florida law quoted above but have been at liberty under bond until the present decision released them. The section into which the couples moved was originally developed by Negroes and has been beautified by real estate interests.

VIOLATES FOURTEENTH AMENDMENT 12-1-45

In rendering his decision, Judge Milledge upholds Defense Attorneys E. F. B. Brigham's contention that the Florida law is in violation of the Fourteenth Amendment to the Constitution, and the Declaration of Rights of the Florida Constitution.

He also contended that Florida law does not authorize the commissioners to designate in what areas members of the various races may reside and that the commission has no authority to make it a penal offense to reside in such areas.

Helping in the fight against the restrictive ordinance were Sam B. Solomon, Miami editor and publisher, and Wesley E. Garrison, wealthy white promoter of the residential area in question.

COURT ORDERS RELEASE OF NEGROES HELD FOR VIOLATING RESIDENTAL ORDINANCE 12-1-45

Black Dispatch

Oklahoma City, Okla.

Law Cannot Enforce Regulations Made on Basis of Color, Race or Creed

WHITE MILIONAIRE BACKS DECISION

MIAMI. — (ANP) — Dale county commission is without authority to impose zoning regulations on a racial basis, Circuit Judge Stanley Milledge ruled last week.

Judge Milledge's ruling was issued in habeas corpus preceeding brought on behalf of two Negro couples, Felton and Willie Mae Coleman and Jack and Claudia Wilson, who had been held for moving into premises zoned for occupancy by whites. They were ordered released by Judge Milledge.

The premises occupied by the two couple are in Causeway park, just across from Brown's subdivision.

Informations filed against the couples are based on chapter 17833, general laws of Florida, which seeks to prohibit Negroes from "wilfully and unlawfully" moving into premises zoned for white occupancy."

12-1-45

E. F. B. Brigham, who appeared for the two couples at the hearing before Judge Milledge, argued the zoning regulations is in violation of 14th amendment to the United States constitution and the declaration of rights of the Florida constitution. He also contended Florida law does not authorize the commissioners to designate in what areas members of races may reside and the commission has no authority to make it a penal offense to reside in such areas.

Attorneys appearing on behalf of the state and county include S. R. Carson, assistant state attorney; Roland Sweet and John C. Wynn, assistant county soliciters; Rep. George S. Okell and Rudolph Isem, assistant county attorney. Since their arrests, the couples have been at liberty under bonds of $250 each.

Sam B. Solomon, local editor and publisher, has worked along with Wesley E. Garrison, white, millionaire promoter of the area in question, to smash the undemocratic enforcement against Negroes.

20a-1945

State Inferior Court --- Georgia

Reverse Court Conviction Of Two Collegians

N.Y. Amsterdam News
2-3-45

Georgia Court of Appeals Saw No Act of Rioting

N.Y.C.

ATLANTA, (ANP)—The Georgia Court of Appeals Tuesday reversed the conviction of two students of the Georgia State College for Negroes at Savannah, charged with trying to incite a riot on a Savannah Street car.

Judge Nash Broyles wrote the opinion, holding that there was no evidence that the students, James P. Smith and John Moody, acted in concert or that their conduct constituted a riot. Judge B. C. Gardner dissented. 3-3-45

According to the record in the case, the defendants were among 50 students of the college who got on the street car at the college stop and grabbed front seats, which they refused to surrender to white passengers boarding the street car later. Georgia's jim crow laws make it mandatory for Negro passengers to sit at the rear and whites to the front of street cars.

Became Belligerent

The white passengers became belligerent and the two convicted students allegedly pulled knives. The motorman claimed that he was threatened when he sought to make the students move to the rear, and was forced to stop the car and call the police. 3-3-45

Convicted in the Chatham Superior Court on an ancient "inciting to riot" statute, the pair was given terms of five to ten years. The law on which the students were convicted several years ago was declared unconstitutional in the famous Angelo Herndon case tried in Atlanta.—H.

Reverse Student Conviction

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Chicago Defender

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Ga. Rules Busses Must Carry All

Savannah Guide
Norfolk 3-14-45

ATLANTA, Ga., (ANP)—If a bus line sells a prospective passenger a ticket, it must transport him to his destination, the Georgia Court of Appeals ruled here last week.

The high court affirmed a judgment for $500 damages obtained by John Austin, of Winder, Ga., against the Atlantic Greyhound corporation. Austin claimed that he was refused transportation from Athens to Winder, at a time when he was seriously ill, and had to pay $5 to get home in a taxicab.

The ruling is considered significant in view of the custom of many bus lines in Georgia and other southern states to deny transportation to Negro passengers, even though they have purchased tickets, as long as there are white passengers to board the bus.

Grand Jury Indicts Pair in Jewel Theft

Atlanta Constitution
Atlanta, Ga.

James Saulsberry, alias James Berry and Leon Teaberry, 32, and Walter Cohen, 39, two Negroes arrested in Albany, Ga., several days ago after 68 diamond rings stolen from an Atlanta jewelry company were recovered, have been indicted by the Fulton county grand jury on a charge of stealing 138 rings valued at $5,000 on March 23. 4-25-45

According to the indictment, the two Negroes took the rings from a sample case being displayed to the owners of the Schneider Jewelry Company by J. P. Weissfield, of New York. 4-25-45

Saulsberry is wanted in Montgomery, Ala., after escaping from prison, where he was serving three years for grand larceny and receiving stolen goods, the county identification bureau reported.

Ga. Sheriff Freed in 1943 Slaying

The Afro American
Baltimore, Md.

ALBANY, Ga. (ANP) — After delibertating several hours, an all-white jury found Sheriff Claude Screws of Baker County and two other officers not guilty in a retrial of the Robert Hall slaying case of 1943. 11-17-45

Also freed were Jim Kelly, special deputy of Baker County and Frank Jones, former Newton policeman. At the time of the killing, all three had been found guilty, fined $1,000 each and given three-year prison terms.

Retried on Technicality

They had been charged with violating the civil rights of Hall, who was fatally beaten while a prisoner. The U.S. Supreme Court granted a retrial on a technicality in the charge of the late Federal Judge Bascom Deaver.

Government witnesses testified that a pistol had been taken from Hall by Frank Jones, then a policeman and its return had been denied by the sheriff to whom it was given. 11-17-45

According to the testimony, Hall was arrested on a "trumped up" charge of tire theft, beaten unmercifully by the officers and later died at an Albany hospital. The State of Georgia has refused any prosecution in the case. The civil rights action by the U.S. Justice Department followed numerous complaints and press pictures of the situation.

20a-1945

Negroes Fail To Escape School Tax

Appellate Court Overrules Madison Jurist

Frankfort, Ky., Feb. 9 (AP)—The fact that a Negro high school has an eight-month term and a white high school runs nine months is no legal grounds for Negroes to refuse to pay school taxes, the Court of Appeals declared today.

The court added that its position was based on all other factors, such as teaching personnel and equipment being equal, which it stated was not otherwise claimed in the suit from Berea upon which its ruling was based.

The whole court considered the case and without dissent overruled Madison Circuit Court's decision in litigation between the Berea Board of Education and certain Negro taxpayers.

Facsimile 'Impossible.'

"Pupils in an eight months' school may advance as rapidly and master the prescribed course to the same extent, as those attending a nine months' school," the opinion stated, and added that for many reasons it would be "impossible to provide a complete facsimile in every respect" for both races.

The State Constitution provides that such schools must not have less than eight-month terms, the opinion added.

Inferior Court

Blacks Learn Faster Than Whites?

Negro students may learn as much in eight months as white students learn in nine, the Kentucky Court of Appeals ruled last week. The ruling was made in connection with refusal of Negro citizens in Berea to pay taxes because governing authorities allowed white school to run nine months while the Negro school is confined to eight.

"Pupils in an eight months school may advance as rapidly and master the prescribed course to the same extent as those attending a nine months school," the high court said.

The ruling of the Kentucky court is nothing new in Southern educational procedures. It is well known that all of the Southern states having separate schools aver constitutionally or by legislative enactment that the public school system shall be separated as to white and colored pupils, but that the accommodations shall be equal. Of course, we all know they are never equal.

Despite the presumption of equality, in 1930 the eleven Southern states spent a total of $240,180,180 on white schools (the equivalent of $35.42 per white child) while at the same time spending in the same eleven states only $23,461,959 (or $12.57 per pupil on Negro children).

To give a more startling breakdown on what actually happens in many of the Southern states respecting educational financing it should be pointed out that figures compiled several years ago showed the following inequalities: Maryland spends $59 annually on the per capita education of white children and $25 on the education of each Negro child. North Carolina spends $52 on the education of white children, $12 on the black; Mississippi spends $32 on the white, $6 on the black, South Carolina, $60 on the white and $5 on the black.

It is out of such outrageous denial of funds appropriated for public education the general average of $12 per Negro child is reached. Oklahoma, West Virginia and even Kentucky raise the average considerably higher than what is shown above and thus strike a $12 norm for the Southern region.

There would be no way to justify saying the public schools are separate but equal down in South Carolina, where the state pays $60 per capita for the white child and $5 per capita for the black child, unless the admission is made that the white child is twelve times as dumb as a Negro child. There is no other plausible construction to be placed on one's reasoning.

Take, for example, the reasoning of the Kentucky court. The court says in so many words a Negro child is more mentally alert than the average white child. According to the high court the white child laboriously struggles through nine months to do what a black child easily accomplishes in eight. When one approaches the opinion from this angle it certainly does considerable damage to the philosophy of white supremacy.

Of course, no reasonable and informed person is inclined to any such reasoning. Race has nothing to do with such matters. Given the same environment, both black and white children will absorb an atmosphere identically and the same. The Kentucky court simply adopted this type of rationalization to cover up the iniquities of state government. No Negro should take comfort in the viewpoint of the Kentucky court, which is guilty of intellectual dishonesty.

Kentucky

The Negro has proved his mental and cultural equality across the ages. No one is fooled by the argument that Negroes cannot meet certain intellectual tests. The black man's inventive and retentive genius was established and known forty cetnuries before one of the Caesars crossed the English channel, twenty-five years following the birth of Christ, and said he found the ancestors of King George stunted savages living in caves. All informed white people know this.

Of course the opinion of the Kentucky court argues that Negroes are superior to white people. They absorb knowledge faster, but if, on the other hand, certain reactionaries show up to argue that Negroes are inferior, one is still at a loss to know why there should be fear on the part of white people to educate Negroes. Why fear to give skills to a class who possesses second rate mental selves? Down South especially, educational courses are patterned so as not to place skilled Negroes in competition with white workemn. It is certainly an enigma to this writer why any skilled white worker would fear the trained Negro worker if he knows to start with that the black laborer does not have the mental capacity to compete with him.

20a-1945

Massachusetts State Inferior Court

Case Won Against Mass. Restaurant

CAMBRIDGE, Mass. — A verdict against the Howard Johnson Restaurant for discrimination was won by Ray W. Guild, attorney for Mr. and Mrs. Guy J. Johnson of this city and Miss Lillian Bag-

RAY W. GUILD

by of New York City, on April 10.

The three plaintiffs, who charged that they had been denied service at the restaurant in Falmouth, Mass., on August 25, 1943, were also paid the forfeiture under the State Civil Rights Statute, which allows from $100 to $500 for such discrimination.

Trial Asked by Defendant

After an investigation by Falmouth police, a suit was brought immediately, but the defendant asked that the case be removed and demanded a juryy trial. It was brought to the Middlesex Superior Court here, where a two-day trial was held.

Formerly three times president of the Boston NAACP, Mr. Guild was assisted in the case by his daughter, Mrs. Jacqueline G Lloyd, who finished Portia Law School at the age of 20 and passe the bar at 21.

Court Voids Labadie Ave. Restrictions

The St. Louis Argus
Saint Louis Missouri

Judge William Koerner, of Division No. 3 of the Circuit Court, held the restrictive agreement against the sale of property to Negroes and Chinese in the blocks on Labadie avenue, between Cora avenue on the west and Taylor avenue on the east, void and of no effect in a decision handed down Monday morning. He denied the injunction sought by the plaintiffs and dismissed their petition. 11-2.3.45

The decision marked the end of a bitter fight waged by Attorney Geo. L. Vaughn in behalf of his clients, Mr. and Mrs. J. D. Shelley, who bought the property at 4600 Labadie avenue last September.

The agreement was attacked as being void because contrary to the Federal and State constitutions and certain federal statutes, and because it was improperly executed and did not bind all the property owners.

The Court found that only about forty per cent of the property owners signed the agreement, that the property was not described so as to enable anyone to know what property was restricted, and that Negroes had been living in the street the past twenty three years.

20a-1945

State Inferior Court- N.J.

Restaurant Faces $1,000 Bias Suit

Afro-American

1-13-45

LONG BRANCH, N.J. — A hearing of charges against a Red Bank restaurant for alleged refusal to serve two Army signal corps employees is scheduled for Friday before Judge Alton V. Evans.

The suit, filed last week in the Second District Court, asks $500 for each of the complainants, Morrison Tribble of Asbury Park and William McGuire of Red Bank.

Charge Rights Violated

The complaints assert that on December 8 the proprietors, Viola and George Benas, and employees of Viola's restaurant, 2 W. Front Street, Red Bank, refused to serve the men in violation of the State's Civil Rights Law.

Balt. Md.

Both are employed by the motor transportaton division of the Army Signal Corps at Camp Coles. They are represented by Ira J. Katchen, NAACP attorney of Long Branch.

20a-1945

State Inferior Court- Pennsylvania

Judge Reversed on V.I. Press Gag

AFRO-AMERICAN

3-31-45

NEW YORK—The Third Circuit Court of Appeals at Philadelphia last week reversed Herman E. Moore, Federal District Judge of the Virgin Islands, who, in June, 1944, sentenced two editors to ten days in jail for criticizing his decision in a murder case.

On May 29, 1944, Judge Moore acquitted Harry Beatty, a near-white native of the ruling class, who shot and instantly killed Andrew Thompson, colored, at St. Croix.

3-31-45

Acquittal Stirs Natives

The natives were aroused because, although Beatty admitted the murder, he was tried hurriedly five days after the incident; and before acquitting him, Judge Moore is alleged to have promised punishment to anyone who discussed the case in the streets.

When the St. Croix Avis and the West End News appeared with editorials headed, "Rapid Trial Acquits Murderer," criticizing the court's conduct, Judge Moore summoned the editors, Canute. Brodhurst, and Paul E. Joseph and handed out the sentence.

3-31-45

The natives, backing up the editors, cabled the American Virgin Islands Civic Association here for help, and the members authorized President Ashley L. Totten to fight the issue to a finish.

3 Agencies Aid Case

Mr. Totten enlisted the aid of the Civil Liberties Union, the League for Industrial Democracy, and the Workers' Defense League. The latter provided counsel, Max Delson and Ernest Fleischmann, who, with George H. Dudley, Virgin Islands attorney, successfully argued the appeal.

Balt, Md

Justices Manis Goodrich and Schoonmaker, in a sixteen-page decision, ruled that the editorial did not obstruct judicial processes because it appeared five days after Beatty was acquitted; and that Judge Moore's decision was "without authority" under the St. Croix code.

20a-1945

Autobiography

AFRO-AMERICAN

Judged Hers

135 Lt., Md.

Charged President Made Copy of Book

LIVED IN GERMANY

2-10-45

Seeks to Preserve African Culture

By STAFF CORRESPONDENT

NASHVILLE—A permanent injunction enjoining Fisk University or its officials from publishing her autobiography was won here Saturday by Princess Fatima Massaquoi, daughter of an African king.

Dr. Mark H. Watkins, professor

PRINCESS FATIMA

of sociology, and Dr. Thomas E. Jones, president, were co-defendants with the university.

The decree, which ends litigation begun on June 8, 1944, was entered in Part I, Chancery Court, by Chancellor Thomas A. Shriver and gives the princess all property rights to the manuscript and any financial returns from its publication.

Studied Under Fellowship

Princess Fatima entered Fisk University in 1939, a year after coming to the United States to obtain her master's degree.

When her father, former king of the Vai tribe, died, she was forced to accept a fellowship as linguistic informant in order to continue her studies.

[EDITOR'S NOTE: The late William N. Jones, AFRO managing editor, met the princess in Africa and

Tenn.

again in Germany. He wrote a series of articles about her, making special mention of the fact that she once taught Vai at Hamburg University.]

It was while teaching classes in the Vai tribal language and culture that she wrote the story of her life. Shortly after its completion in 1940, she said, she showed it to Dr. Watkins, who thought the work should be published.

Submitted It for Editing

"At the same time," she continued, "he offered to edit the manuscript because my English was not publishable.

"I understood at that time that I was to retain the property rights and the exclusive right to publication."

Later, she declared, Dr. Watkins refused to return the manuscript when she requested it, doing so only after he and President Jones had made a complete copy of it.

"In the meantime, with the promise of advantages that were never realized," she continued, "I stayed here teaching classes in Vai, helping compile a Vai dictionary and even teaching folk dancing at Bethlehem Center.

"For all of this, I received from $10 to $20 each month."

Speaks Eight Languages

Princess Fatima, who speaks eight languages, in addition to four tribal dialects, and who was educated in Germany and Switzerland, declared that her act was not a matter of "selfishness but of sharing."

"But," she added, "they didn't want to share it with me, and so they conspired against me, thinking that because I am a foreigner, I would run away from any fight for my rights.

"I never wrote my story for Dr. Watkins or Dr. Jones to take away. My autobiography is my soul and my heritage, and I couldn't go home to Liberia and look my family in the face after selling my culture and heritage for a mess of pottage."

Line Older Than Windsor's

A member of a royal family which has ruled the Vai tribe of northern Liberia and southern Sierra Leone longer than the Windsors have ruled England, Princess Fatima is one of twelve children.

Her father, Mormolu Massaquoi, one of the greatest exponents of the Vai culture, abdicated his throne (turning it over to his sister) and offered his services to Liberia.

When Fatima was 7 years of ge, he was made consul to Germany and the family moved to Germany where they remained during the rise of the Third Reich.

Official Interpreter

Because the princess could speak eight different lanuages by the time she was 16, her father used her as his interpreter at many official functions.

Among these she remembers the funeral of the late German Field Marshal Paul von Hindenburg, where she had her first glimpse of Adolf Hitler.

Saw Tightening of Reins

Declaring that the control of free thinking tightened more and more the longer Hitler was in power, she added that by the time she left the country in 1936 the German people were becoming mere "tools to the Nazi state."

America is the direct contrast, she said. "The jokes the Americans make over the radio and in the newspapers about President and Mrs. Roosevelt would take their heads in Germany."

While she has no immediate plans, the princess hopes to return as soon as possible to Liberia to open a school devoted to teaching the preservation of African culture.

State Inferior Courts

benalf of Willie Preston, young Negro laborer who with his wife lived in a house boat near the scene of the drowning, Atty. Webster Porter declared: "the state in bringing all of these witnesses in here is endeavoring to convict this young man on a serious charge when his conduct has been that of a hero. Instead of endeavoring to send him to prison, these relatives and friends of the dead man should be honoring him for his heroic efforts, and these officers of the court should be arranging to have him nominated for a Carnegie medal in view of his acts of heroism."

NEGRO YOUTHS PROVEN HEROES; MURDER CHARGE DROPPED

The Plaindealer Kansas City, Kansas

Knoxville, Tenn.—Determined efforts of the state to convict two Negro youths of murdering Virgil Johnson, by drowning in Fort Loudon Lake Oct. 21, were halted Thursday afternoon in Knox County's General Sessions court, when Judge Bernard Gleason dismissed the charges after a hearing that lasted the major part of the afternoon.

Atty. Roy Stansberry introduced a dozen white women witnesses for the state in trying to prove that Willie Preston, 30; Edward Kincaid, 17, and Walter Lee Dverton, 16, ran the 27-year-old white man into the swirling waters at the foot of Market street, on Friday afternoon.

Roy Hayes, who lives in a house boat near the scene of the drowning supported the statements of Preston that he was sitting on the house boat when he heard Johnson cry for help, and immediately the young Negro got an old boat and with one paddle, got to the drowning man 50 feet way just as he went down the last time. Hayes, a white man, told the court that Preston did everything within his power to save Johnson, and came near going over the side of the boat as he grabbed for the drowning man.

In summing up the evidence on

Federal Swindle Case Against 18 Dining Car Men Dismissed

The Afro American Baltimore, Md.

CHICAGO (ANP)—Charges of conspiracy against 18 dining car employees of the Erie Railroad in the famous GI meal swindling case were dismissed by U.S. Judge Walter J. LaBuy here Thursday.

12-8-45

Judge LaBuy found "insufficient evidence" to convict the group of allegedly swindling soldiers out of chickens, steaks and chops paid for by the Government. The FBI made the charges last summer.

Meanwhile, conviction of 25 New York Central dining car workers seems eminent in New York on the same charges. About 100 white and colored workers were rounded up in the east at the same time as they were arrested here.

Trial Ordered In 'Bias' Suit Against Union

Washington Post D.C. 4-10-45

Richmond, Va., April 9 (AP).—The Fourth United States Circuit Court of Appeals has remanded to the District Court in Norfolk the "racial discrimination" case in which Tom Tunstall, Negro locomotive fireman, sought to establish equal seniority rights for Negro firemen in the employ of the Norfolk Southern Railway Co.

Opening its April term today the court said that Tunstall's suit against the Brotherhood of Locomotive Firemen and Enginemen, Norfolk, the railway company and W. M. Munden, chairman of Ocean Lodge, No. 76, may be treated as a "class suit." It also held that there had been sufficient service of process to bring the brotherhood into court.

The case came before the Circuit Court for the second time today. On its first hearing here the appellate court affirmed the judgment of the District Court, whereupon Tunstall appealed to the Supreme Court of the United States, which in turn remanded it to this court for further consideration. 4-10-45

The Negro charged the defendants with "wrongful deprivation" of his job and improper representation under the Railway Labor Act."

Fine 'Fair' Woman on Morals Charge

Afro-American Balt., Md. 6-2-45

RICHMOND—Miss Edna Barber of Ballsville, Va., sister of Mrs. Eusebia Johnson of 516-A N. Third St., was fined $20 and costs, and given a six-month suepended sentence Tuesday in police court on morals charges.

Miss Barber, who is very fair, was caught in Room No. 7 of the Virginia Hotel, a white hostelry located on E. Main St., between Third and Fourth Sts., with a white soldier, according to police.

Officer G. O. Slaughter, a member of the Police Department vice squad, testified that Miss Barber and the soldier, who was turned over to military authorities, were registered as man and wife.

The officer said that he went to the room and listened for several minutes. The lights were extinguished and the couple were in a compromising position.

Miss Barber did not offer any testimony, but produced a certificate showing that she had submitted to a health examination.

In the courtroom, she sat in the section reserved for white spectators and wore dark glasses.

Hustings Court Clears Four, Frees Seven

Richmond Times 5-12-45

Four persons were adjudged not guilty and seven others were freed under suspended judgments in Hustings Court yesterday. All had appealed from Police Court, where they were adjudged guilty.

Those who found not guilty were: Richmond, Va.

Claude D. Wood, Jr., 38, of the 1100 block Carlisle Ave., charged with drunk-driving, who had been fined $100 and costs in Police Court.

Elsmere H. Tankersley, 49, of the 2500 block North Ave., accused of violating the ABC Act. In Police Court he had been fined $50 and placed under a three-month suspended sentence.

Leroy Brittain, 48, of the 3500 Moody Ave., who had been convicted of vagrancy in Police Court and ordered to post a $100 bond for three months.

George Gaines, Negro, 50, of the 1900 block East Main St., who had been fined $100 and sentenced to jail for two months in the lower court on a charge of being an operator in the numbers racket.

Judgments Suspended

Defendants in cases in which judgment was suspended, and the charges against them, were as follows: 5-12-45

William Robinson, Negro, 32, 100 block South Lombardy St., a person not of good fame. In the lower court he had been fined $20 and ordered to post a $300 bond for 90 days.

W. H. Dockery, Negro, 26, of the 500 block North Fifth St., a person not of good fame. In Police Court he had been fined $20 and ordered to post a $300 bond for six months.

John Dockery, Negro, 26, of the 700 block West Cary St., a person not of good fame. In Police Court he was fined $20 and ordered to post a $300 bond for six months.

Lawrence Reed, 77, of the 2600 block Fernhill Ave., a charge of being a common drunkard. In Police Court he had been ordered to post a $300 bond for six months.

William Green, Negro, of the first block North Twenty-second St., assault and battery. In the lower court he had been sentenced to jail for three months.

Bennie H. Beasley, 41, of the 2400 block Barton Ave., indecent and profane language. In Police Court he had been ordered to post a $300 bond for a year.

Amos Taylor, 52, of the 3700 block Government Rd., disorderly. In Police Court he had been ordered to post a $300 bond for six months.

Fight Testimony Makes Juror Faint

Wash., D.C. Washington Post

Richmond, Va., Nov. 13 (AP).—Willie Branch, Negro, was awarded damages of $21,350 in law and equity court today in his suit for $40,000 against two Chinese restaurant operators who, it was testified, cut off his left hand with a meat cleaver last December.

A juror fainted and fell out of the jury box at the trial this morning as Branch's attorney, Cutler May, described a bloody fight in which the Negro was assaulted by Lee Wong Sing and Hon Low in their restaurant when he came in to get something to eat. The Chinese, May contended, threw chairs at Branch, kicked him to the floor and while he was prone, one of them severed his hand at the wrist. 11-14-45

The jury was out 10 minutes, and returned with a verdict for $21,350 against both defendants.

20b-1945

Alabama State Supreme Court

BATTLE OF THE BALLOT

Chi., Ill.

High Court Okays Ala. 'Vote Ban' Ruling

Chicago Defender

2-3-45

By JOHN LeFLORE
(Defender Staff Correspondent)

MONTGOMERY, Ala.—In one of the most obvious legal "run-arounds" involving the right of a Negro to register as a voter, the Alabama Supreme Court has upheld the Montgomery Circuit court action of a $500 fine and disbarrment for Arthur Madison, prominent New York attorney.

The high court's decision climaxed litigation that began last year when Atty. Madison was called in to represent his brother, Gerald P. Madison and approximately 15 other Negro residents of Alabama, who charged they had been denied the right to register by the Montgomery Board of Registers because of their color.

In the first phase of the suit, the Circuit court ruled that Madison should have filed his petition for a hearing within 30 days after being denied the right to register by the Board of Registrars. During this time, pressure was being brought to bear on five of the litigants who were teachers in the Montgomery school system with the result that they denied authorizing Atty. Madison to represent them.

The New York barrister denied the charge of representing persons in court without their consent but the circuit body disbarred him from practice in the state and imposed a $500 fine. It was this decision that Supreme court backed up. On the first decision, the higher court said no ruling was necessary since Madison's application had been filed too late.

Following Atty. Madison's disbarrment, Atty. Arthur D. Shores of Birmingham was retained by the National Bar association. Commenting on the decision, he said, "the appellate court ducked the major issues set forth but I do not think we will appeal either case to the U. S. Supreme court." Atty. Shores was reluctant to carry the case to the state court because of the 30-day technicality but did so in the interest of others involved. 2-3-45

* * *

Register in Alabama City

GREENVILLE, Ala. — (ANP) — For the first time since adoption of the 1909 Alabama constitution, Negroes here were permitted to register to vote during the January registration period, it was reported Wednesday.

Seven of eight Negroes who applied for registration were registered, one being refused because he had been charged with, but never convicted of forgery. Citizens here claim that a petition to register had been addressed to the registration officials, and that the names of the seven allowed to register were attached to it.

Applicants stated that registration officials had told them that the registration period would be one day, but that they had learned the day before the period was to close that it had been so scheduled earlier than the date given them.

* * *

Ask Repeal of S.C. Poll Tax

COLUMBIA, S. C. — (ANP) — Repeal of the poll tax as a prerequisite to voting in the primary and general election, adoption of a secret ballot, repeal of the ancient statute requiring a $92,000 license fee for labor recruiting in South Carolina and certain educational opportunities were asked of the South Carolina state legislature Friday by the executive committee of the Progressive Democratic party. 2-3-45

The petition was addressed to Gov. Ransome J. Williams, Senator Edgar G. Brown, president of the state senate and Rep. Solomon C. Blatt, speaker of the house of representatives, but included a section making it applicable to all members of the general assembly.

DEATH DECREE AFFIRMED

MONTGOMERY, Ala., June 7—(AP)—A death sentence for Giles Scott, Dale County Negro convicted of robbery, was affirmed today by the Alabama Supreme Court. Scott was convicted of slugging Mrs. Bessie Hatcher, Pinckard store operator, and robbing her of $2,700. He pleaded innocent. The Supreme Court set Scott's execution for Aug. 10.

Birmingham News 6-7-45

Birmingham, Ala.

Court Declines To Order Negro's Sanity Hearing

Birmingham News

Birmingham, Ala.

BESSEMER, Ala., Nov. 30—Alabama's Supreme Court today had declined to issue an order to compel a sanity hearing for Isaiah Bush, discharged Negro soldier who is under a first degree murder indictment for the shooting last July 10 of R. S. Kendrick, 44-year-old Bessemer police officer.

Solicitor Arthur Green, of the Bessemer Cut-Off, said date for trial of the accused Negro would be set shortly. 11-30-45

According to testimony gathered in the investigation of the shooting, Bush, reportedly an expert in judo tactics, wrested the officer's gun away after Kendrick had sought to arrest Bush's Negro companion on an assault and battery warrant. Shots were heard a few moments later, Solicitor Green said.

Witness to the shooting was Kendrick's 5-year-old son Jimmy. The officer is survived by his wife and two sons, Jimmy, and Louis, an Army sergeant now in France.

ARKANSAS FARM SALE 'MADE BY COERCION'

Commercial Appeal
Memphis, Tenn.

Negro Forced To Transfer Land, High Tribunal Holds

CIVIL LIBERTIES CASE

3-6-45

From The Commercial Appeal
Little Rock Bureau

LITTLE ROCK, Ark., March 5.—The Arkansas Supreme Court Monday held a contract authorizing sale of a 160-acre Crittenden County farm for $8000 was "procured through coercion and fraud" and in a lengthy review of the weird and famous civil liberties trial several years ago, in which Cecil B. Nance, C. C. Culp and Jim Miller were sentenced to the penitentiary by a Federal Court jury, the high tribunal ordered the contract canceled.

The case involved L. A. Millsaps, Crittenden County negro, and G. D. Strauss, who asked the Crittenden Chancery Court for an order requiring specific performance of a contract executed July 10, 1941, by L. A. and Ora Millsaps, under the terms of which Strauss was to purchase Millsaps' farm near Crawfordsville.

Accused Of Killing Stepson

Millsaps was accused of having murdered his stepson, and after entering a plea of guilty to second degree murder, was sentenced to 21 years. The Supreme Court pointed out a condition was "that the sentence and punishment will be held up on the condition the defendant leave the state and not return to said state nor Crittenden County. 3-6-45

An opinion written by Chief Justice Griffin Smith said John A. McKnight, acting in the dual role of "friend of the negro for the purpose of procuring his release and interested stranger for the purpose of acquiring his property," conferred with Millsaps while he was in jail at Marion and told him Strauss made an offer of $8000 for the property.

"In these circumstances, influenced, as he says, by threats of civil actions and electrocution, and having been persuaded that his only chance to salvage life or property was acceptance of the so-called Strauss offer, Millsaps signed the contract and later gave McKnight a written order to make certain payments," the Supreme Court opinion said.

The opinion reviewed the purported trial of Millsaps, pointed out that after the negro had employed C. D. Nance as an attorney he had the privilege of getting out" of jail, and that Nance offered to get the negro a suspended sentence, "the price being $2500." 3-6-45

Strange Activities Cited

Chief Justice Smith then went into the civil liberties trial, pointing out that Nance, Culp and Miller were charged with arresting persons without cause, imprisoning them in jail at Marion or West Memphis, frequently assaulting these persons for the purpose of extortions, and unlawfully holding them in confinement for long periods.

The opinion said the Millsaps case was an example of their activity. 3-6-45

"We think the established course of conduct respecting those confined in jail at Marion and West Memphis during the period in question," the opinion declared, "considered with other evidence and reasonable inferences to be drawn from circumstances, shows the payment of $2000 (to Nance) was something more than an attorney's fee, and that a plan (craftily withheld from the court's knowledge) to purchase freedom from the accused formed the basis for sale of the farm for a wholly inadequate price. Inference is that 'Strauss' is a fiction. All of the evidence tends to show that McKnight was making personal purchase. We do not impute to McKnight any disloyal purpose in negotiating for the release of Millsaps, but the activities of Nance as lawyer, McKright's understanding of the so-called 'system' and the ends to be served through procurement of $2000 in currency and payment to one who obviously claimed for himself the ability to 'fix' the criminal charge—these things present a situation where equity should not decree specific performance."

COURT BARS AUXILIARY FOR NEGROES IN A.F.L.

St Louis Argus Mo.

Rules Boiler Makers Union Illegal

1-5-45

SAN FRANCISCO, Jan. 2.—In a far-reaching decision, the California Supreme Court decided that the AFL Boilermakers' Union, which provides only auxiliary membership to Negroes, is "an arbitrarily closed or partially closed union is incompatible with a closed shop."

The finding affirmed a lower court decision prohibiting Marinship Corporation, a shipyard, from discharging Negro workers because they would not join a Negro auxiliary formed by the Boilermakers Union. 1-5-45

"Negroes must be admitted to membership under the same terms and conditions applicable to non-Negroes unless the union and the employer refrain from enforcing the close shop agreement against them," the majority opinion read.

California State Supreme Court Unanimously Rules That Labor Union Must Admit Negro Workers To Full Membership In Local

N.Y.; N.Y. New York Age 1-13-45

SAN FRANCISCO, Calif. — The State Supreme Court ruled unanimously Tuesday that a labor union must admit Negroes to full membership or not try to enforce the closed shop agreement. The decision was looked upon by labor lawyers as the most significant handed down by this court in more than thirty years. N.Y. Age 1-13-45

"The union may not maintain both a closed shop and an arbitrarily closed or partially closed union," Chief Justice Phil Gibson wrote in the decision of the case arising from the refusal of Local 6 of the Boilermakers Union, AFO, to admit Negroes, insisting instead that they join a Negro auxiliary.

A group of Negro employes at the Marinship Corporation's yards at Sausalito refused to join what they called "a Jim Crow union" and obtained a preliminary injunction on February 17 restraining Marinship from discharging them under a closed shop agreement. The Supreme Court decision affirmed the action of County Judge Edward I. Butler. 1-13-45

"In our opinion," wrote Justice Gibson, "an arbitrarily closed or partially closed union is incompatible with a closed shop. Where a union has, as in this case, attained a monopoly of the supply of labor by means of a closed shop agreements and other forms of collective labor action, such a union occupies a quasi-public position similar to that of a public service business and it has certain corresponding obligation. 1-13-45

"It may no longer claim the same freedom from legal restraint enjoyed by golf clubs or fraternal associations. Its asserted right to choose its members does not merely relate to social relations; it affects the fundamental right to work for a living." New York Age

Justice Gibson ruled that "the discriminatory practises involved in this case are contrary to the public policy of the United States and this State," and added:

"Negroes must be admitted to membership under the same terms and conditions applicable to non-Negroes unless the union and the employer refrain from enforcing the closed shop agreement against them."

Charles J. Janigian, attorney for the local, said that he would ask for a rehearing. Should this be denied, he said, the case would be tried in the lower court, for the preliminary injunction was issued on the basis of a complaint and counter-affidavits without the taking of evidence. 1-13-45

Views On Labor News

Daily Worker N.Y. by George Morris 1-12-45

Old Jimcrow Getting Cornered in the AFL

THE law is gradually cornering old Jimcrow and white supremacy within the American Federation of Labor. Too bad this squeezing out of poison has to be done through courts. But, after waiting 50, 60 years, history is just getting tired of the AFL's limp-along-far-behind behavior.

Perhaps the most far-reaching decision was Monday's unanimous ruling of California's Supreme Court declaring that a closed shop and closed union books to certain people are unlawful and do not fall in the category of "legitimate objective of organized labor."

The court said that an agreement puts the union in the position of a "quasi-public body" with "corresponding obligations" to the public. "Negroes," the court went on, "must be admitted to membership on the same terms and conditions applicable to non-Negroes, unless the union and employer refrain from enforcing the closed shop agreement against them." 1-6-45

Judging by the United States Supreme Court's decision two weeks earlier on the railroad case, where a union contract limited to whites only, was in effect invalidated, I would guess that the California ruling will be upheld if the Boilermakers Union appeals.

* * *

THE Boilermakers, a lily-white union for many years, became big-hearted after considerable pressure earlier in the war and agreed to give Negroes Jimcrow auxiliaries. Aside from the insulting form of organization, the new creations had neither voice nor vote in the affairs of the union or in contract negotiations. That was all left to the "betters" with a lighter complexion. Eventually, in face of public denunciation and FEPC measures, the union at its convention threw a few more crumbs in the form of some insurance benefits and a fictitious voice.

But self-respecting Negroes at the Marin Shipyard in California and a rising tide of support from whites in and outside the labor movement stood their ground. They fought out the basic question—of a right to membership on the "same terms" as others, and won. They refused to pay dues to the auxiliaries. The officials of the Boilermakers, in accordance with closed shop policy, ordered the company to fire them. The company was ready to comply when the court stayed its hand.

I read that California decision with particular pleasure for I experienced at AFL conventions several times the disgusting scene of Charles J. MacGowan, president of the Boilermakers, bellowing away with full lung-power on the beauties of his setup. Now it is Mr. MacGowan's turn and he had better think carefully before he moves for it is about the last move he'll be able to make. To call a convention and recommend complete scrapping of the pre-Civil War machinery or appealing and almost surely losing: that is the alternative.

Daily Worker N.Y.

THERE is still another aspect to this situation. The way it has worked out race supremacy has opened a wedge into the closed shop. Every American of progressive mind will welcome the California decision. At any time I'll put the issue of race equality ahead of the closed shop. In fact, the latter isn't secure without the former anyway. But who can tell? Tomorrow a court may drive another wedge into the closed shop on an unjust ground. 1-6-45

The way the AFL has been cornered on its Negro policy is a fine illustration of the ultimate harm that comes to the entire working class if any section of it suffers discrimination. The same holds with respect to anti-Communist bars in some unions. Those bars have been practically nullified in effect because in no case are they formally applied on job rights, so they could be tested in a court. The sponsors of that form of discrimination know well that they haven't a legal leg to stand on.

The whole issue, as the California court said, is the long overdue realization that a union has a responsibility to the public and is duty-bound to run its affairs at least as liberally as the letter and spirit of our Constitution and the Bill of Rights. The MacGowans who guard the color line, the Scalises who rob union treasuries, the Lewis' and Bill Hutchesons who rule like czars, give the open shoppers a good excuse to demand all sorts of legal devices to hamstring unions.

Die-hard union protests Supreme Court ruling

AF of L Boilermakers' Unions up and down the Coast, hit by the California Supreme Court ruling this week that unions must either give up the closed shop or admit Negroes to full membership, are expected to fight the decision, if necessary, "all the way to the Supreme Court."

This was indicated Thursday in San Francisco where Charles Janigan, attorney for the union at the Marin Shipyards, said his local would fight. He was preparing to ask for a rehearing by the State court and if turned down on that, said he would fight it in the Superior Court, back to the State Supreme Court and on up to the United States Supreme Court.

The State Supreme Court followed a precedent set by the U court in returning the decision against Marinship. Only a week earlier, the highest court of the land had ruled against the Brotherhood of Locomotive Firemen in favor of Negroes.

In the Marinship case, the State Supreme Court sustained the decision of Superior Court Judge Edward I. Butler of Marin County who, on Feb. 17 of last year, issued an injunction restraining the union from compelling Negro workers to join a jim crow local.

Chief Justice Phil S. Gibson wrote the decision, which stated that "the fundamental question in this case is whether a closed union coupled with a closed shop is a legitimate objective of organized labor . . . Where, as here, a labor union has attained a monopoly of the labor supply through closed shop agreements, such a union, like a public service business, may not unreasonably discriminate against Negro workers for the sole reason that they are colored persons."

The Marinship union attorney said the case "has not been really tried on the facts yet, as it came up from Superior Judge Edward I. Butler's court in Marin on a preliminary injunction." Accordingly, Janigan said he intended to ask for a rehearing by the Supreme Court within the required 15 days, and if turned down on that, to go back into Judge Butler's court.

"Then the Negroes would really have to prove that discrimination exists," said the attorney.

LEGAL PROCESSES

If Judge Butler ruled against the union, appeal would be taken to the State Supreme Court again. If the union case failed there, a writ of certiorari would be asked for, so that the matter could go to the United States Supreme Court.

"In view of the importance of the issue, we would hope that the writ would be granted if things came to that pass," said Janigian.

The present arrangement under which Negroes are working at Marinship is that those already hired do not have to pay dues to the Negro "auxiliary" local of the union, but that new men entering the plant usually do.

PRESENT STATUS

Janigian said if the State Supreme Court should rule against a rehearing of the case, during the pendency of the further litigation the Supreme Court order "would of course be in effect, and during that period presumably the union would either have to admit the Negroes to full membership, or give up the closed shop contract with Marinship."

The case is further complicated in that the Negroes themselves have two cases on appeal before the State Supreme Court, involving other shipyards. One of these is from a decision made by Superior Judge Ezra Decoto of Alameda County, and the other from a decision made by the late Superior Judge Peter J. Mullins of San Francisco.

IN DECLARING THAT JIM CROW AND THE CLOSED shop were incompatible under the law, the California Supreme Court has put to shame the equivocal decision on the same issue handed down recently by the United States Supreme Court. In contrast to the federal tribunal's weak statement that "discriminations based on race alone are obviously irrelevant and invidious," the California court declared flatly that such discrimination affects the fundamental right to work for a living and is therefore "contrary to the public policy of the United States and this state." The California decision, which was unanimous, held that when a union has attained a monopoly of the supply of labor by means of a closed shop, such a union occupies a quasi-public position and assumes corresponding obligations—notably that of upholding the principles of the Fifteenth Amendment. Obviously, certain dangers are inherent in the California decision. Labor-baiters will undoubtedly try to extend the "obligations" assumed under the closed shop in such a way as to weaken or destroy trade unionism as such. But if organized labor expects continued public support in its campaign for closed shop contracts, it should take immediate voluntary steps to open its ranks to all workers, without regard for race, religion, or political affiliation.

20b-1945 Ontario, Canada

Canada High Court Outlaws Racial Restrictive Covenants

the Chicago Defender
Chicago, Illinois

TORONTO — (ANP) — Racial property covenants have been outlawed in this province on the basis of the United Nations charter by Justice Keiller Mackay of the Ontario Supreme court. 11-24-45

The case grew out of a real estate transaction by the Workers' Educational association, which planned to build a model home on O'Connor drive here to be raffled off to provide funds for the organization. The property was found to be covered by an anti-jewish restrictive covenant which stipulated that the land "was not to be sold to Jews or persons of objectionable nationality."

Court action was brought about by the Canadian Jewish congress, represented by Atty. J. M. Bernstein, which objected to the racial intolerance that the anti-Semitic clause created.

To covenant "lends poignancy to the matter when one considers that anti-Semitism has been a weapon in the lands of our recently defeated enemies, and the scourge of the world," said Justice Mackay. He added that anti-Semitism had been repudiated by the late President Roosevelt, Gen. Charles de Gaulle, the World Trade Union congress, and the Pan-American conference. 11-24-45

He also pointed out that if a sale of a piece of land could be prohibited to Jews, it could equally be prohibited to Protestants, Catholics or any other denomination.

"In my opinion," he said, "nothing could be more calculated to create or deepen divisions between existing religious and ethnic groups in the province or in this country, than the sanction of a method of land transfer which would permit the segregation and confinement of particular groups to particular business or residential areas. It appears to be a moral duty at least to lend aid to all forces of cohesion and similarly to repel all tendencies which would imperil national unity."

UNITED NATIONS CHARTER OUTLAWS RACIAL COVENANTS SAYS CANADA SUPREME COURT JUDGE

the Black Dispatch
Oklahoma City, Oklahoma

Anti-Jewish Property Restriction Ruled Out By New Opinion

SAYS U. S. SHOULD TAKE NOTE

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Dr. Stephen S. Wise, president of the American Jewish congress, characterized the ruling as a "decision which puts the phrase 'restricted' outside the pale of legality." 11-24-45

He hailed Canada's observance of the United charter, which pledges member nations to promote universal respect for and observance of "human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

Dr. Wise said it is the first occasion, to his knowledge, in which a decision has been on the observance of the United Nations charter, then commented that "this precedent shattering decision might well be an example for courts of justice in our own country." 11-24-45

Property Barriers Outlawed by United Nations, Judge Holds

Pittsburgh, Pa. Courier
11-24-45

TORONTO—(ANP)—Racial property covenants were outlawed in this province recently on the basis of the United Nations Charter by Justice Keiller Mackay of the Ontario Supreme Court. The case grew out of a real estate transaction by the Workers Educational Association, which planned to build a model home on O'Connor Drive here to be raffled off to provide funds for the organization.

"The American Jewish Congress is prepared to lend its support and facilities to any group or individual desiring to achieve the same results in this country," declared Dr. Stephen S. Wise, president, in a further comment on the Canadian decision outlawing racial covenants.

The property was found to be covered by an anti-Jewish restrictive covenant which stipulated that the land "was not to be sold to Jews or persons of objectionable nationality."

Court action was brought about by the Canadian Jewish Congress, represented by Atty. J. M. Bernstein, which objected to the racial intolerance that the anti-Semitic clause created.

LEADERS REPUDIATED RACIAL INTOLERANCE

The covenant "lends poignancy to the matter when one considers that anti-Semitism has been a weapon in the lands of our recently defeated enemies, and the scourge of the world," said Justice Mackay. He added that anti-Semitism had been repudiated by the late President Roosevelt, Gen. Charles de Gaulle, the World Trade Union Congress and the Pan-American Conference.

He also pointed out that if a sale of a piece of land could be prohibited to Jews, it could equally be prohibited to Protestants, Catholics or any other denomination. 11-24-45

"In my opinion," he said, "nothing could be more calculated to create or deepen divisions between existing religious and ethnic groups in the province or in this country, than the sanction of a method of land transfer which would permit the segregation and confinement of particular groups to particular business or residential areas. It appears to be a moral duty at least to lend aid to all forces of cohesion and similarly to repel all tendencies which would imperil national unity."

AN EXAMPLE FOR AMERICAN COURTS

Dr. Stephen S. Wise, president of the American Jewish Congress, characterized the ruling as a "decision which puts the phrase 'restricted' outside the pale of legality." 11-24-45

He hailed Canada's observance of the United Nations Charter, which pledges member nations to promote universal respect for and observance of "human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

Dr. Wise said it is the first occasion, to his knowledge, in which a decision has been based on the observance of the United Nations Charter, then commented that "this precedent-shattering decision might well be an example for courts of justice in our own country."

Court Blasts Florida Demo White Primary

Chicago Defender Ill.

2-17-45 2-17-45

PENSACOLA, Fla.—Two Negroes crashed Florida's lily-white primary this week, paving the way for the wholesale registration of qualified Negro voters throughout the state. In a writ of mandamus, Circuit Court Judge L. L. Febisinski ordered county registration officer Ben Davis to register the two Negroes as Democrats.

The decision granted them the privilege of casting a vote in the Democratic city primary in April. Other Negroes have announced they will aim for wholesale registration on Monday.

Although the writ was opposed by the State Democratic Executive committee and Attorney General J. Tom Watson, the decision is expected to stand throughout the state.

2-17-45

Ga. Poll Tax Ban Okayed

ATLANTA — (ANP) — The poll tax became a thing of the past in Georgia Monday when Gov. Ellis Arnall affixed his signature to the stormily-debated repeal measure handed him by state Senate President Frank Gross.

The victory for poll tax opponents climaxed a four-week fight in the state legislature which featured pronouncements for repeal by both former Governor Eugene Talmadge and Gov. Arnall.

As he signed the bill, Gov. Arnall said, "Today, Georgia spoke for democracy. We are proud of the fact that the people of Georgia through the general assembly have for all times settled the issue of their right to vote. No longer will it be necessary to buy the right to vote in the empire state of the south.

"The results obtained by passage of the poll tax repeal bill completely justify the determined position I took with the general assembly. I am proud of the legislature and the people appreciate the service rendered democracy."

* * *

Subpeona Poll Taxers

WASHINGTON — Poll-taxer John E. Rankin of Mississippi was one of seven Senators and Congressman served with subpeonas this week in a move by the Southern Electoral Reform League which is contesting the seats of 69 solons from the remaining seven poll-tax states. 2-17-45

Moss A. Plunkett, president of the league, said the testimony of the subpeoanaed senators and congressmen would be made part of his case against the poll-taxers.

Subpeonas calling for their appearance in the library of the Grace Dodge hotel here Feb. 16 were issued for Reps. Rankin, Speaker Sam Rayburn of Texas, and Howard W. Smith of Virginia, and Sens. Tom Connally of Texas, Harry F. Byrd of Virginia, Kenneth McKellar of Tennessee and Theodore G. Bilbo of Mississippi.

* * *

Laud Ga. Repeal 2-17-45

WASHINGTON — Congressmen fighting the battle of the poll tax took time out this week to applaud Georgia's repeal of the levy.

At the same time they pledged to continue their fight for federal action to abolish the poll tax requirement throughout the South.

"The move in Georgia is a fine thing and what we all want," declared New York's Labor Party representative Marcantonio. "But it won't change our plans," added the leader of the poll tax repealers. "We still are going to try and have Congress pass a law eliminating the tax in all states.

"Some may never take action, so it's up to Congress to see that all the people down there get the vote to which they are entitled.

"We have agreed to unite in working for a petition to take the matter out of the hands of the Judiciary committee and thus force it to the floor for a vote."

Marcantonio, along with Reps. Dirksen (R.-Ill.), Bender (R.-Ohio), and Clason (R.-Mass.), has introduced measure to repeal the tax, which is required of voters in Georgia, Alabama, Arkansas, Mississippi, South Carolina, Texas, Virginia and Tennessee.

Negroes To Cast Votes In Florida Elections

Montgomery Advertiser

PENSACOLA, FLA., Feb. 10—(INS)—Judge L. L. Fabisinski of the Pensacola circuit court, granted a writ of mandamus today allowing two negroes to register in the Democratic primaries. 2-11-45 AP

The two negroes had sought registration in the Democratic primary, which will elect candidates for the city council in April, but they were turned away by County Registration Officer Ben Davis.

The decision, which was held up by the failure of the registration officer to defend his action, gives Florida negroes the right to register and vote at will.

Plans to Let Negroes Vote In Florida Primary Studied

Courier-Journal Ky.

3-17-45

Tallahassee, Fla., March 16 (AP)—Three proposals designed to meet recent court rulings granting Negroes the right to vote in Democratic Party primaries were studied here today by a committee headed by Attorney General Tom Watson.

One suggestion would permit Negroes to participate in the primaries. However, it would segregate them from other races in registering and voting and prohibit them from being candidates of the Democratic Party for any office. 3-17-45

Convention System Asked.

The second proposal would allow minority groups to name candidates for the general election ballots. This method would not be strictly a primary election in character but would be by membership popular vote as distinguished from a convention vote. The State would relinquish all supervision over the nominating elections and would ebar none of the election expense.

The third suggestion would abolish the primary system entirely and return to the party convention method of nominations. Worked out under this alternative, the plan would have to be uniform, applicable alike to all parties. 3-17-45

The committee will make recommendations for presentation to the Legislature next month.

DEMOCRATIC VOTE OF NEGROES UPHELD

New York Times

Florida Ruling Based on High Court Decision on Rights in Texas Primaries

NY 7-28-45

Special to THE NEW YORK TIMES.

TALLAHASSEE, Fla., July 27—The Negro's right to vote as a Democrat in State primary elections was upheld today by the State Supreme Court.

The decision was based on a ruling by the United States Supreme Court by which Texas Negroes were given the right to vote in Democratic party primaries on the theory that a primary is an integral part of an election in which the Constitution guarantees all citizens the right to vote.

Justice Rivers Buford wrote the opinion in two companion cases affirming the Escambia County Circuit Court's decision in directing a registration supervisor to register two Negroes as Democrats.

Essau Chavis and R. A. Comwell, Pensacola Negroes, sought to register as Democrats in Escambia County. The Supervisor of Registration refused. Judge Fabisinski directed him to enter their Democratic party affiliation beside their names.

Attorney General Watson conceded that the cases fell under the Texas Smith vs. Alright decision of the United States Supreme Court, but sought reversal on technical points. 7-28-45

State Supreme Court several years ago had held in cases not involving Negro voting that Democratic primaries were an integral part of the election process.

Several similar suits have been brought by Negroes in other Florida circuit courts, which also ruled they could cast ballots as Democrats, but this was first decision by the Supreme Court.

A Negro organization has been established in the State to enlist Democratic voters for next year's elections and Mr. Watson has agreed to act as go-between in an attempt to arrange a joint meeting of the group with the State Democratic executive committee early next year.

Mr. Watson has urged Democratic party officials to accept the fact that Negroes are to be allowed to vote and advocated steps to prevent any conflicts that might result from their participation in party primaries.

He suggested to the Legislature an "affiliation plan" by which Negroes would be permitted to vote in Democratic primaries but would not be taken into the party as members nor be allowed to become party candidates. It never was introduced. 7-28-45

Bills to abolish all primary election laws on Florida statute books and leave party nominations exclusively to the parties without State supervision were introduced in the 1945 session of the Florida Legislature but they never got floor consideration.

Negro Vote In Primary Is Upheld

Richmond Va. Richmond Times Dispatch

TALLAHASSEE, FLA., July 27—(AP)—The State Supreme Court ruled today that Negroes are entitled to vote in Florida Democratic primary elections.

The unanimous decision was based on a United States Supreme Court ruling under which Texas Democratic primaries were opened to Negroes. The high court said a primary is an integral part of an election in which all citizens have a constitutional right to vote.

Opinions by Justice Rivers Buford affirmed two companion Circuit Court rulings directing registration Supervisor Ben L. Davis to register R. A. Cromwell and Essau Chavis as Democrats.

The opinions dealt largely with the technical procedure of bringing the cases to court. 7-28-45

Florida law permits the Democratic party to lay down membership qualifications and for many years Negroes have been barred from the organization. Republican primaries are open to both races.

Negroes always have been allowed to vote in Florida general elections.

NEW YORK, N. Y.
HERALD TRIBUNE
Cir. D. 356,512 — S. 539,023

JUL 28 1945

Negro Voting in Primary Upheld by Florida Court

Ruling Based on the Supreme Court's Texas Decision

TALLAHASSEE, Fla., July 27 (AP).—The right of Negroes to vote as Democrats in Florida primary elections was upheld today by the State Supreme Court.

The decision was based squarely, and with little discussion, on a ruling by the Supreme Court of the United States by which Texas Democratic party primaries were ordered opened to Negroes on the theory that a primary is an integral part of an election in which the Constitution guarantees all citizens the right to vote.

Florida law does not specifically prohibit Negro voting in party primaries but leaves to the Democratic party itself the authority to prescribe qualifications of its members.

For many years, the Democratic party in Florida has confined its membership to white persons. Negroes have always been able to vote in Republican primaries and to cast their ballots for candidates of their choice in general elections.

A few Negroes in some Florida counties voted in Democratic primaries last year after the United States Supreme Court had handed down its decision in the Texas case.

Bills to abolish all primary election laws on Florida statute books and leave party nominations exclusively to the parties without state supervision were introduced during the 1945 session of the Legislature but never received floor consideration.

NEW YORK, N. Y.
SUN
Circ. D. 277,172

JUL 27 1945

COURT U HOLDS NEGROES' VOTE

Florida Assures Ballot in Democratic Primary.

Tallahassee, Fla., July 27 (A. P.).—The right of Negroes to vote as Democrats in Florida's primary elections was upheld today by the State Supreme Court.

The decision was based on a ruling by the Supreme Court of the United States by which Texas Democratic party primaries were opened to Negroes on the theory that a primary is an integral part of an election in which the Constitution guarantees all citizens the right to vote. Florida law does not specifically prohibit Negro voting in party primaries, but leaves to the Democratic party the authority to prescribe qualifications of its members.

For many years, the Democratic party in Florida has confined its membership to white persons. Negroes always have been able to vote in Republican primaries and for candidates of their choice in general elections. A few Negroes in some Florida counties voted in Democratic party primaries last year after the United States Supreme Court had handed down its decision in the Texas case.

Bills to abolish all primary election laws on Florida statute books and leave party nominations exclusively to the parties without State supervision were introduced during the 1945 session of the Legislature but never received floor consideration.

JUL 27 1945

Negro N. Y. Voting Post N. Y. Upheld

High Florida Court Rules on Primaries

Tallahassee, Fla., July 27 (AP)—The right of Negroes to vote as Democrats in Florida primary elections was upheld today by the State Supreme Court.

The decision was based squarely, and with little discussion, on a ruling by the U. S. Supreme Court by which Texas Democratic Party primaries were opened to Negroes on the theory that a primary is an integral part of an election in which the Constitution guarantees all citizens the right to vote.

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Florida Negroes May Vote In Primaries

Cleveland, Tenn. Banner

TALLAHASSEE, Fla., July 28, (U.P.)—The decision that party rules cannot bar a person from voting because of color alone, today gave state supreme court protection to negroes who wish to vote in democratic primary elections.

The high court, which yesterday made a unanimous decision to uphold an escambia circuit court, said that the issue had already been settled by the United States supreme court in a Texas voting procedure case. The escambia suit involved R. A. Cromwell and Essau Davis, Pensacvola Negroes, who attempted to be registered as democratic voters. County officials were ordered to register the two as they had requested. 9-28-43

The U. S. supreme court ruled in the Texas case that the primary was on integral part of an election, and that party rules could not bar a person from voting because he was a negro. 7-28-45

20b-1945

Florida

Court Rules Negroes Due Primary Vote

Louisville Ky. Courier Journal

Tallahassee, Fla., July 27 (AP)—The State Supreme Court today ruled that Negroes are entitled to vote in Florida Democratic primary elections. 7-28-45

The unanimous decision was based on a United States Supreme Court ruling under which Texas Democratic primaries were opened to Negroes. The high court said a primary is an integral part of an election in which all citizens have a constitutional right to vote. 7-28-45

Opinions by Justice Rivers Buford affirmed two companion Circuit Court rulings directing Registration Supervisor Ben L. Davis to register R. A. Cromwell ad Essau Chavis as Democrats.

Florida law permits the Democratic Party to lay down membership qualifications and for many years Negroes have been barred from the organization. Republican primaries are open to both races.

Negroes always have been allowed to vote in general elections.

SUPREME CT. REFUSES TO HEAR TEACHERS' EQUAL PAY CASE

Savannah Tribune Savannah Ga.

The Savannah Tribune

WASHINGTON, D. C., Oct. 8 In a decision handed down today, the Supreme Court refused to hear the suit of a Negro school teacher charging the Dade county, Fla., public school board with "discrimination" in payng white teachers larger salaries. 10-11-45

Herbert C. Reynolds brought the suit on behalf of himself and 262 other Negro teachers in the Dade county public school system

The appeal to the Supreme Court was brought after the Southern Florida Federal District court and the Fifth Circuit Court of Appeals failed to find any discrimination in the method of paying Dade county school teachers. 10-11-45

The contention of Reynolds was that for the county to pay white teachers higher salaries than those paid Negro teachers violates the Fourteenth Amendment which guarantees equal protection of the law.

Georgia Body Says U. S. Rulings Deprive States of Sovereignty

Courier-Journal, Louisville, Ky 2-9-45

Atlanta, Feb. 8 (AP)—Holding that County jury commissioners are not required to place Negroes on jury lists in the same ratio as whites, the Georgia Supreme Court declared today that decisions by the U. S. Supreme Court in recent years have deprived States of sovereignty.

The decision upheld the conviction of David Watkins, 17-year-old Negro sentenced to death for the slaying of Mrs. J. J. Connell, 68, in a $2,000 robbery at Macon. W. C. Turpin, Jr., court-appointed defense attorney, said: "It is my present intention to appeal to the U. S. Supreme Court."

Referring to an 1854 Georgia decision holding the Georgia court coequal with the U. S. tribunal and not subject to its orders, Justice Warren Grice said in today's opinion: 2-9-45

"One is sometimes led to wonder if the States, once sovereign, have not become from a practical standpoint . . . little more than geographical subdivisions of a consolidated government."

'It Is No Use to Kick.'

The Georgia court said the decision did not contravene the highest court's ruling in the Scottsboro, Ala., case granting a new trial to Negroes convicted of rape on a finding that Negroes were systematically and arbitrarily excluded from jury rolls because of color. Referring to that case the Georgia court commented: 2-9-45

"Any attempt by this court to disregard the plain and oft repeated adjudications of the Supreme Court of the United States upon the subject (unless and until that tribunal at some future day shall itself repudiate and overrule them) would be as powerless as the voice of King Canute when he commanded the waves not to come near his throne.

"When the power to effectually resist is lacking, it is no use to kick."

jury lists in the same ratio as whites, the Georgia Supreme Court declared Thursday that recent decisions by the United States Supreme Court were depriving states of sovereignty. 2-17-45

In upholding the conviction of David Watkins, 17-year-old Negro sentenced to death for murder in a robbery, the Court held that Solicitor-General Charles H. Garrett of Bibb county had been within his rights in keeping Negroes off Criminal Court juries since 1919 through the exercise of peremptory challenges.

Ga. Supreme Court Raps Recent U. S. Court's Decisions

New York Age 2-17-45 N.Y.

ATLANTA, Ga. — Holding that county jury commissioners were not required to place Negroes on

Georgia Court Upholds Racial Covenants

Chicago Defender 6-16-45

ATLANTA — (ANP) — The Georgia Supreme court ruled Wednesday that real estate restrictions limiting the sale of property only to persons of the white or so-called Caucasian race are enforceable and not in violation of the 14th Amendment to the United States constitution.

The cases involved were brought by the Savannah Bank and Trust company as administrator of the estate of Peter Rabey against Louise Fisher and Margarita H. Dolley of Savannah. The latter two are colored.

Ga. Court Outlaws 'Third Degree'; Grants New Trial

Norfolk Journal & Guide 3-5-45 Va

By Associated Negro Press

ATLANTA, Ga.—The Georgia Supreme Court Wednesday last week severely criticized 'third degree' methods employed by members of the Georgia Highway Patrol in inflicting "mental torture" on Nernie Coker, Tift county farm hand, who was granted a new trial in a murder case. Coker was under death sentence. 3-3-45

The Supreme Court quoted three officers of the State patrol as telling how they grilled Coker from 2:30 o'clock one afternoon until daylight the next morning, after he had been arrested in the middle of the previous night, and procured a confession when they took him to patrol headquarters to resume grilling for another day.

"It is our opinion that the mental torture suffered by the defendant in the instant case was more severe than would have been physical torture in the case of a beating," the Supreme Court opiinon read, continuing, "Certainly it was continued longer."

REPUDIATES CONFESSION

The high court pointed out that Coker was an uneducated country boy in his late teens and cried when the grilling was resumed, then confessed in about 15 minutes. Later, he repudiated the confession, and the Supreme Court held that it should not have been used as evidence against him, in view of the method by which it was obtained. 3-3-45

"When torture, either physical or mental, is resorted to in order to obtain a confession, it is plain mandate of our law that a confession thus obtained cannot be used in evidence," the court ruled.

Coker, a farm hand, who lived in the home of Mr. and Mrs. B. M. Overby, white, in Tift County, Ga., was charged with hiding in a hayloft and shooting Mr. Overby when the latter was feeding stock. Mrs. Overby, as a result of Coker's confession, was charged with conspiracy in the case, but has never been brought to trial. 3-3-45

Atty. J. O. Ewing, Atlanta, chief defense counsel for Horace Blalock, charged with the 1943 slaying of Henry C. Heinz, millionaire banker and former president of Rotary International, in commenting on the court's decision, pointed out that Blalock had been grilled for 18 continuous hours under the same conditions held illegal by the Coker decision, before he allegedly signed a confession to the killing.

20b-1945 Georgia State Supreme Courts

Georgia Court Defies U.S. On Negro Jurors

Chicago Defender Ill.

By JOHN LE FLORE
(Defender Staff Correspondent)

ATLANTA, Ga. — The Georgia Supreme court in a decision which is regarded by many as being in open defiance to a ruling of the U.S. Supreme court, on last Thursday held that county jury commissioners were not required to place Negroes on jury lists in the same ratio as whites.

The stake in the decision is the life of 17-year-old David Watkins, who was convicted and sentenced to death on a charge of slaying Mrs. J. J. Connell, 68-year-old white woman, in a robbery at Macon. Watkins' conviction was upheld by the Georgia high court.

Court-appointed defense attorney W. C. Turpin, Jr., white, stated after the decision was rendered that it is his present intention to appeal to the U.S. Supreme court.

In a contemptuous disregard of the highest court of the land, the Georgia court in an opinion written by Justice Warren Grice charged that decisions by the U.S. Supreme court in recent year were "depriving" states of sovereignty.

2-17-45

Ruse Upheld

The decision also held that Solicitor Charles H. Garrett, of Bibb county, in which Macon is located, who was the prosecuting attorney in the case of the Watkins youth, had been within "his rights" in keeping Negroes off criminal court juries since 1919 through the exercise of peremptory challenges.

The justices said that Georgia law allowed the prosecutor and the defense attorney a fixed number of peremptory challenges and ruled that either could excuse a prospective juror "for any reason on earth or for no reason at all."

In a covenant plactd before the court, Garrett contended, "We have not reached the point in the social affairs of Georgia which would make it possible for Negro jurors and white jurors to work together and possibly eat together and sleep together, and conserve the ends of justice." 2-17-45

Cites Negro Illiteracy

Garrett further contended that Georgia statutes require jury commissioners to place on the jury lists a "sufficient number" of "upright, and intelligent men" as prospective jurors, not all who are "qualified." A stipulation agreed that 35,536 of the Bibb county population of 83,783 were Negroes, and that only 44 Negroes were on the jury rolls of 2,493 persons named on the lists.

In upholding the contention of Garrett in that particular, the Georgia high court said:

"It is a matter of common knowledge that there is more illiteracy among the blacks in our midst than among the whites. By far the greater portion of the former are ignorant, unskilled manual laborers, many of whom are utterly incompetent to serve on juries.

"It would be contrary to what everyone knows, who is acquainted with the facts, to judicially declare that among the blacks of the states there is as large a percentage of those who possess the qualifications for jury servile laid down by our code as with the white population.

2-17-45

"It should be a matter of no surprise that the return of the jury commissioners (ratio on jury lists) of Bibb county indicated as much."

Cites 1854 Law

To give further support to their white supremacy decision, the Georgia justices intimated a belief in "states' rights," especially in dealing with the desire of Southerners to deprive Negroes of their rights as citizens.

They referred to an 1854 Georgia decision holding the Georgia court co-equal with the U.S. Supreme court and not subject to its orders. In defending "states' rights," Justice Grice said: ". . . as time rolled on, the very stars in their courses seemed arrayed against the plan of the founding fathers."

"One is sometimes led to wonder if the states, once sovereign, have not become from a practical standpoint — under the expanding powers of the federal government, the exercise of which has been sanctioned by the Supreme court of the United States—little more than geographical subdivisions of a consolidated government."

Inject Scottsboro Case

Continuing its tirade against the U.S. Supreme court's rulings establishing equal rights and privileges, the Georgia court brought in the Scottsboro (Ala.) decision on the jury question made by the nation's highest tribunal.

The state high court held that its decision did not contravene the U.S. Supreme court's ruling in the Scottsboro case granting a new trial to the nine Negro boys railroaded to death sentences on charges of rape against Victoria Price and Ruby Bates, two white women hoboes in the early 30's.

Continuing, it (the Georgia court) remarked: 2-17-45

"Any attempt by this court to disregard the plain and oft repeated adjudications of the Supreme court of the United States upon the subject (unless and until that tribunal at some future day shall itself repudiate and overrule) would be as powerless as the voice of King Canute, when he commanded the waves not to come near his throne.

"When the power to effectually resist is lacking, it is no use to kick."

The Georgia high court's ruling is believed by many to be in direct violation of a decision of the U.S. Supreme court several years ago in a case appealed from Louisiana, in which it was held that mere token representation of Negroes on jury rolls did not meet the requirements of law. The particular case involved was remanded for new trial on that point.

Georgia Court Rejects Negro Jury Demands

Montgomery Advertiser Ala.

2-9-45

Declares Law Does Not Require That Names Of Blacks Go In Box

By O. P. HANES

ATLANTA, Feb. 8—(AP)—Holding that county jury commissioners were not required to place negroes on jury lists in the same ratio as whites, the Georgia Supreme Court declared today that decisions by the U. S. Supreme Court in recent years were depriving states of sovereignty.

The decision upheld the conviction of David Watkins, 17-year-old negro sentenced to death for the slaying of Mrs. J. C. Connell, 68, in a $2.000 robbery at Macon. W. C. Turpin, Jr., court-appointed defense attorney, said "it is my present intention to appeal to the U. S. Supreme Court."

Referring to an 1854 Georgia decision holding the Georgia court co-equal with the U. S. tribunal and not subject to its orders, Justice Warren Grice said in today's opinion that "as time rolled on, the very stars in their courses seemed arrayed against the plan of the founding fathers."

"One is sometimes led to wonder if the states, once sovereign, have not become from a practical standpoint—under the expanding powers of the federal government, the exercise of which has been sanctioned by the Supreme Court of the United States—little more than geographical subdivisions of a consolidated government," said Justice Grice. 2-9-45

Scottsboro Case

The Georgia court said the decision did not contravene the highest court's ruling in the Scottsboro (Ala.) case granting a new trial to negroes convicted of rape on a finding that negroes were systematically and arbitrarily excluded from jury rolls because of color. Referring to that case and others on the subject, the Georgia court commented:

"Any attempt by this court to disregard the plain and oft repeated adjudications of the Supreme Court of the United States upon the subject (unless and until that tribunal at some future day shall itself repudiate and overrule them) would be as powerless as the voice of King Canute when he commanded the waves not to come near his throne.

"When the power to effectually resist is lacking, it is no use to kick." 2-9-45

The decision also held that Solicitor General (prosecuting attorney) Charles H. Garrett, of Bibb County (Macon), had been within his rights in keeping negroes off criminal court juries since 1919 through the exercise of peremptory challenges.

The court said Georgia law allowed the prosecutor and the defense attorney a fixed number of peremptory challenges and ruled that either could excuse a prospective juror "for any reason on earth or for no reason at all."

In a stipulation placed before the court, Garrett said that "we have not reached the point in the social affairs of Georgia which would make it possible for negro jurors and white jurors to work together and possibly eat together and sleep together, and conserve the ends of justice."

Georgia Law

Georgia statutes require jury commissioners to place on the jury lists a "sufficient" number of "upright and intelligent" men as prospective jurors, not all who are qualified. A stipulation agreed that 35,536 of the Bibb County population of 83,783 were negroes and that only 44 of the 2,493 on the jury rolls were negroes.

"It is a matter of common knowledge that there is more illiteracy among the blacks in our midst than among the whites," said the tribunal. "By far the greater portion of the former are ignorant, unskilled manual laborers, many of whom are utterly incompetent to serve on juries.

"It would be contrary to what everyone knows, who is acquainted with the facts, to judicially declare that among the blacks of the States there is as large a percentage of those who possess the qualifications for jury service laid down by our code as with the white population.

"It should be a matter of no surprise that the return of the jury commissioners (ratio on jury lists) of Bibb County indicated as much." 2-9-45

The court said the case had this difference from the Scottsboro case: Under Alabama laws, it "would seem to be the duty" to place on jury rolls all citizens who came up to a required standard. Under Georgia statutes officials "need not place the names of all upright and intelligent taxpayers in the jury box, but only such a number as they deem sufficient."

20b-1945

Louisiana

Supreme Court Affirms Conviction Of Louisiana Man

NEW ORLEANS, La.—The Louisiana State Supreme Court recently affirmed the conviction and death sentence of Solomon Washington, resident of Bastrop, La., who was sentenced late last year for the murder of Dave White, Morehouse parish policeman, on August 21, 1944.

The State Supreme Court decision was handed down by Justice W. Hamiter.

Tried For Murder

Solomon Washington, alias "Dude Cash," was tried for the murder of the Bastrop policeman late in 1944 before Judge Frank W. Hawthorne in Morehouse parish courts. Since that time, Judge Hawthorne has been eletced to the State Supreme Court.

Washington was allegedly placed under arrest by policeman Dave White, who went to Washington's home in response to a telephone call. Enroute to the jail, records show, the officer summoned a neighbor, Ernest Neighbors, a city employee, who got into the officer's car to accompany the pair to jail.

At the jail a fight reportedly ensued between the two white men and Washington and Neighbors is said to have been knocked unconscious.

He told police that when he regained consciousness Officer Dave White was lying on the floor and Washington was gone. Medical aid was summoned but White died of a fractured skull believed to have been inflicted by Washington.

Some days later Washington was cornered and wounded by officers who captured him near McGhee, Arkansas. It was reported that he fired several shots at his captors before being wounded and was said to be in possession of a revolver identified as property of Officer Dave White.

20b-1945

High Court Acts Favorably In Two Cases On Rights

Atlanta Daily World
Atlanta, Ga.
10-12-45

BY LOUIS LAUTIER

WASHINGTON, D. C. —(NNPA)— The Supreme Court last Monday acted favorably in two cases involving the rights of colored persons--declining in one case to review a decision holding that the exclusion of a colored applicant from a library training course was illegal and deciding in the other to review a judgment affirming the first degree murder conviction of a colored man in the killing of a white woman.

Trustees of the Enoch Pratt Free Library of Baltimore City had asked the high tribunal to review the decision of the United States Fourth Circuit Court of Appeals holding that their action is barring Miss Louise Kerr from a training course violated the equal rights provisions of the fourteenth amendment of the Constitution and the Federal Civil Rights law.

The Circuit Court had reversed a decision of the District Court dismissing her complaint. The District Court held that the refusal of the library trustees to admit Miss Kerr to the training course was not based solely on race or color but in good faith because no position would have been open to her on graduation and that their practice of selecting persons for the technical staff of the library was due to the exercise of their best judgment in the interest of the public service.

Miss Kerr sued the library corporation, the trustees and the librarian under the equal protection clause of the fourteenth amendment of the Constitution and the Federal civil rights law. She sought to enjoin them from rejecting her application and excluding her from a training class solely because of race or color. She also asked damages against the individual trustees. 10-12-45

Her father, T. Henderson Kerr, a Baltimore taxpayer, joined in the suit, seeking an injunction against the Mayor and City Council of Baltimore to restrain the appropriation of city funds for the library if the court held its was a private corporation.

In their brief opposing the petition to review the case, W. A. C. Hughes of Baltimore, and Charles H. Houston, of Washington, attorneys for Miss Kerr, told the Supreme Court that in Baltimore a white girl can train to be a library assistant while living at home and be paid $50 a month while in training, whereas an equally qualified colored girl must leave home, go outside the state at her own expense to take library training and compete in an examination with other persons for the only two positions opened to colored persons.

The case now goes back to the District Court for further proceedings not inconsistent with the decision of the Circuit Court.

10-12-45

In the other case the Supreme Court decided to review the conviction and death sentence of Julius Fisher for the murder of Miss Catherine Reardon, assistant librarian at the Washington Cathedral on March 1, 1944.

DEGREE DISTINCTION

Mr. Houston, who also is representing Fisher, contends that the District of Columbia Court of Appeals in upholding Fisher's conviction failed to consider the distinction made by Congress between murder in the first and second degrees.

He also contends that the appellate court erred in holding that a defective mental condition insufficient to sustain an acquittal on the ground of insanity may not be considered in determining the degree of crime, between first and second degree murder, thereby depriving Fisher, who was on trial for his life, of the benefit of relevant and perhaps decisive evidence in his favor. 10-12-45

Miss Reardon was found dead on March 2, 1944. Her body was discovered in a steam pipe tunnel in a basement of the Cathedral. Fisher, who was employed as a janitor at the Cathedral, was arrested. He told police Miss Reardon upbraided him about his work and called him a "black n—." He said he "smacked" her and when she screamed he struck her over the head with a piece of wood and choked her. She fainted, he said and he took her in the basement where he finished killing.

Maryland

20b-1945

Marland

Pratt Library Course Open to All Races

The Afro Americanpaper Baltimore Md.

10-20-45

Supreme Court Refuses Review, Confirming Earlier Decision

BALTIMORE

The Supreme Court's refusal to review the Pratt Library case Monday leaves the library's training course open to colored applicants as decided last March by Judge Morris A. Soper in the District Court of Appeals.

When Judge Soper rendered a decision that the library, as a public institution, had no right to bar colored applicants solely on the basis of race, the library trustees appealed the case to the Supreme Court.

The Supreme Court Monday refused a hearing on the appeal, thereby allowing Judge Soper's decision to stand.

Only Three Colored

There are at present three colored librarians at Branch No. 1, Fremont Ave. and Pitcher St. All were trained in other cities and have been employed within the last three years.

Mrs. Alma Bell, head librarian, appointed Sept., 1944, was educated at Spelman College and Atlanta University and served as librarian at Camp Stewart, Ga., before coming to Baltimore.

Mrs. Iona W. Collins, appointed Sept., 1942, was educated at Hampton Institute and Howard University.

Miss Thelma L. Thomas, appointed April, 1943, completed library course in Hartford, Conn., where she later served in the public library.

NAACP Case

Through the NAACP, headed by Mrs. Lillie M. Jackson, the case was taken to court on behalf of Miss Louise Kerr, former school teacher and present AFRO reporter, whose application for admittance to the library's 1943 training course was denied.

Attorneys were W. A. C. Hughes Jr. and Charles H. Houston, Washington.

Judge Soper's ruling in the Appeals Court reversed a decision by Judge W. Calvin Chesnut in the local Federal Court that the library was a private institution, although supported by city taxpayers, and was within its rights to bar colored applicants.

10-20-45

AFRO Reporter Sued

Filing suit with Miss Kerr was her father, Dr. T. Henderson Kerr, pharmacist, who contended that denial of his daughter to the class deprived her of her constitutional rights as a citizen and taxpayer.

Attorneys for the library told the Appeals Court that its policy to exclude colored applicants from the training course was based on "business reasons and in good faith."

The trustees adopted a resolution to that effect because the only staff positions open to colored librarians in the Pitcher St. branch of the library were already filled.

Acted by Policy

Since it is established that the trustees acted by policy rather than by malicious intent, the Kerrs' petition for $60,000 damages was not considered in any of the court decisions, although they were granted a declaratory judgement setting forth her right to attend the classes.

The Appeals Court ruled that if the special charter of the library gives it the power to discriminate between the people of the State on account of race, it violates the Fourteenth Amendment since the self-perpetuating board of nine trustees are representatives of the State.

Hired Three Librarians

10-20-45

While the library continued to exclude colored persons from the training class, it has hired within the last three years three colored librarians at the Pitcher St. branch, which has a predominantly colored patronage.

All of these workers were trained outside of Maryland.

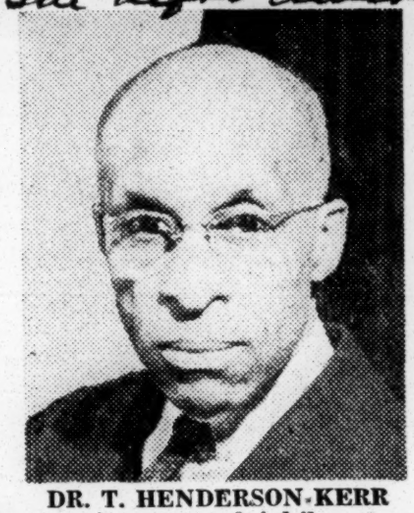
Because of lack of funds, the training class has been indefinitely suspended. Dr. Joseph L. Wheeler, head of the Pratt Library when the Kerr case was instituted, has since resigned and has been replaced by Emerson Greenway of Worcester. Mass.

Made Significant Library Decision

Shown are members of the Supreme Court which by refusing to review the Pratt Library case upheld the decision of the Circuit Court of Appeals which ruled that the Pratt Library training course should be opened to colored applicants.

Principals in the Case Which Opened Library Courses to All

MISS LOUISE KERR



DR. T. HENDERSON KERR

MRS. LILLIE JACKSON

CHARLES H. HOUSTON

W. A. C. HUGHES

These principals in the Pratt Library suit expressed jubilance over the Supreme Court's decision this week and said that a new avenue of employment would now be open to colored women.

Library Case Victory Seen as Avenue for Opportunity

BALTIMORE

Expressing jubilance over the victorious outcome of the Pratt Library suit, the principals involved made the following statements concerning their interpretation of how the Supreme Court decision will benefit the community.

MISS LOUISE KERR, the training class applicant:

"The winning of the library case proves again the effectiveness of the courts as a weapon in the fight for constitutional rights. It also places a blazing question mark behind the tenets of our so-called democracy where the colored man must fight for those opportunities that are justly his as an American citizen.

"The decision should champion the cause of the NAACP and encourage thousands to unite with this fearless and dynamic organization which is unrelentless in its fight for justice.

Far-Reaching Effect

"The effect of the decision will be far-reaching, affecting many agencies receiving municipal appropriations. It is of cardinal importance that we make intelligent use of all opportunities opened, and prove in reality that we are ready for them.

"The community should be on the alert to avail itself of privileges resultant from this decision. Once the training class is re-opened, it is our duty to keep there a good representation of colored girls to enjoy this training denied 200 persons before them."

Praises Attorneys

DR. T. HENDERSON KERR, the taxpayer:

"The library case victory is indeed significant and I, along with friends and acquaintances, am naturally jubilant. I wish to thank and congratulate Attorneys Charles H. Houston, W. A. C. Hughes, and all others who helped to mount another racial barrier.

"It is unmistakably clear our group has been painfully exploited, many having ridden to fame and position at our expense. In a way, we have been helpless due to lack of foresight in effective organization, which meant our power of resistance was negligible.

"It is painfully and sadly disgusting to know of people living on the public, receiving substantial salaries paid by taxes of which we pay a goodly share and in turn using these various offices to deny us our just share of opportunities we as citizens have every right to expect and enjoy.

Management at Fault

"The Enoch Pratt Library is a case in point. I have talked to people who knew Mr. Pratt and they are very convincing in their statements that such doings as carried on by the library management are far different from what he proposed. His gesture was to help all of the people and in the same way. I have reason to believe the same holds true for similar contributions from other benefactors in creating various institutions for public use.

"The highest tribunal has put its stamp of approval on the unanimous ruling of the U.S. District Court of Appeals which frowned on such discriminatory practices by the 'broadminded' library management.

"This brushing our group aside as occasion demands is contrary to the laws by which this country is supposed to be governed and must be stopped, so says the court.

Must Demand Rights

"Locally we can expect the white public to squirm and use every ruse to discourage and prevent our entry into fields which by their interpretation were meant for a certain group of the public only. Our job then is to qualify and demand, the courts having definitely decided that the public means all of the people.

"The crumbs or leavings are not necessarily our share and we must gather sufficient buoyancy to ride the crest of the waves of public monies that flow so freely and are taken so generously from our pockets on equal terms with that taken from the purses of those who have waxed fat at the public trough.

"A great victory has been won. The thought uppermost in my mind is whether or not we are going to take advantage of it."

Step Forward

MRS. LILLIE M. JACKSON, president, Baltimore NAACP:

"The victorious decision in the Pratt Library case is another step forward in the determined effort of the colored citizens of Maryland, through the NAACP, to obtain their full constitutional rights under the law.

"Our country, State, and community have a glorious heritage, the American Constitution, which establishes the equal rights of all citizens. But it is up to us in our individual communities to make those constitutional principles a reality. This the NAACP daily strives to do.

"The courts provide us with a weapon. It was the courts that opened the University of Maryland Law School to colored students. It was the courts that ordered the equalization of the salaries of hundreds of colored teachers in Maryland counties, with a total increase of one half million dollars annually.

It Costs Money

"And now the courts interpreting our constitutional rights in the library case dispute have declared that no tax-supported institution can bar a citizen from its various facilities because of his race.

"But it costs money to go into courts. The library case was fought over a three-year period at a total cost of more than $2,500.

"As we thank God for this new sign of progress, we remember with gratitude the faith of our NAACP members, increasing in numbers through the years, whose memberships and support make this advancement possible.

Rededicated to Tasks

"Today 20,000 colored citizens of Baltimore believe enough in their rights to pay their annual memberships in this organization that it might carry on. Working shoulder to shoulder with us is a small but equally faithful group of white citizens who realize that in as much as any portion of the population is exploited, segregated, denied equal opportunities, just so much is the whole population retarded and democracy weakened.

"For this united faith and effort we are exceedingly thankful and hereby rededicate ourselves to the ever challenging task of making democracy live in Baltimore."

May Affect Hospitals

CHARLES H. HOUSTON, the attorney:

"I think the principle established in the Kerr case will affect hospitals and other public institutions where, although owned by the public and supported by tax money, practical control has been turned over to a private organization such as a medical society, which draws a color line without any reference to individual fitness.

"I hope we can use the decision to open the doors of all public hospitals to competent colored physicans.

"Secondly, I think that the decision is the beginning of what will have to be a long line of cases establishing the principle that there can be no burdens or restrictions on the individual citizen's right to employment in the public service solely on the ground of race or creed.

Equal Opportunity

"Thirdly, I think it is an extension of the University of Maryland (Donald Murray) case on equality of educational opportunities. The Murray case establishes that the State must offer equal educational opportunities to all persons regardless of race, creed or color.

"The Kerr case shows that the State cannot dodge this responsibility by setting up a private corporation to offer education through public facilities and with public money for benefits restricted to whites only."

20b-1945 Miss. Supreme Court

Says Evidence Was Not Sufficient To Warrant Conviction

In Former Houston, Texas

1-6-45

JACKSON, Miss. — In an unprecedented action, the Mississippi State Supreme Court which convened here Friday reversed the conviction of a Negro who had been charged, indicted, convicted and sentenced to life imprisonment for the murder of a white man. 1-6-45

The beneficiary of such unparalled court action was Henry James Moore who had been sentenced to life imprisonment in connection with the fatal shooting of Jack Chaney, white, during a free-for-all fight on Christmas Day, 1943.

In reversing the conviction, the State Supreme Court ruled that the conviction was "clearly and palpably contrary to the evidence presented" and had been arrived at obviously "because of passion, prejudice or corruption."

Moore had been charged with firing the show which killed Chaney while the latter, another white man, two white women, and a group of Negro men and women were engaged in a free-for-all fight in a "blind tiber" establishment last Christmas. Moore was alleged to have fired a shot into the crowd from where he was standing outside the building.

One person, Sid Johnson, white, was a state witness and accused Moore, but other evidence presented discounted his testimony.

20b-1945 North Carolina Supreme Court

N. C. High Court Dismisses Case Against Tobacco Union Leader

Daily Worker N.Y., N.Y.
1-5-45

WINSTON SALEM, N. C., Jan. 4. —North Carolina's Supreme Court today dismissed company - union inspired charges against William De Berry, Negro, international representative of the CIO Food, Tobacco, Agricultural and Allied Workers.

The De Berry case gained wide prominence, with a special union defense committee waging a nation-wide campaign in his behalf. It was viewed as the last effort of the expiring company union at the Reynolds Tobacco Co. (Camels) plants here for a new lease of life.

The Charges, which were denounced as a frame-up attempt, grew out of a claim by Louise Johnson, white official of the company organization, that she was "slapped" by De Berry while attending Labor Board hearings in a Federal building. A guilty verdict was railroaded through and he was sentenced to 30 days. 1-5-45

The State Supreme Court ruled that the case was not within the state's jurisdiction on the ground that the alleged act took place on Federal property.

20b-1945

Texas State Supreme Court

Doomed Negro Loses Discrimination Plea

WASHINGTON, June 4.—(AP)—A Texas Negro lost his fight against a death sentence today when the supreme court rejected his argument that he was the victim of discrimination because only one Negro served on the grand jury which indicted him.

The court split six to three in upholding the Dallas county conviction of L. C. Akins on a murder charge. It was unconvinced that deliberate limits were placed on the number of Negroes on the jury but Justice Murphy, dissenting, said such limitations were clearly proved and that Akins' constitutional rights were abridged.

NEW YORK, N. Y. HERALD TRIBUNE
Cir. D. 356,512 — S. 539,023

JUN 5 - 1945

Supreme Court Rejects Negro's Jury-Bias Plea

6-3 Decision Backs Death Penalty, Though Only One Negro Served in Case

WASHINGTON, June 4 (AP).—A Texas Negro lost his fight against a death sentence today when the Supreme Court rejected his argument that he was the victim of discrimination because only one Negro served on the grand jury that indicted him.

The court divided six to three in upholding the Dallas County conviction of L. C. Akins on a murder charge. It was unconvinced that deliberate limits were placed on the number of Negroes on the jury, but Justice Murphy, dissenting, said such limitations were clearly proved and that Akins's constitutional rights were abridged.

Justice Reed declared in the majority opinion it could not be said the three jury commissioners violated their obligations. Fairness in selection, he declared, "has never been held to require proportional representation of races upon a jury."

In dissenting, Justice Murphy said, "The State of Texas, in insisting upon only one Negro representative on the grand jury panel, has respected no right belonging to petitioner."

Chief Justice Stone and Justice Black also dissented, but did not outline their reasons.

In other decisions handed down today the Office of Price Administration won out in cases involving its ceiling price orders.

The court refused to review a decision of the Emergency Court of Appeals upholding beef-price ceilings for processing packers who are estimated to handle about 85 per cent of the country's beef output. The appeal was sought by Armour & Co., Chicago, which contended the maximum allowed by the O. P. A. did not meet cost of production.

The court also approved, 8 to 1, the O. P. A. method of arriving at ceiling charges for building materials and consumer durable goods other than apparel.

The court also denied the 42d St. Foto Shop, Inc., New York City, a review of an order by the New York State Labor Relations Board to cease interference with employees' union activities.

The concern asked the court to determine if the board's order contravenes the Constitutional right of free speech. It protested that New York court decisions in effect "give to a union free and untrammeled license to attack and and vilify an employer and at the same time forbid an employer from replying to or commenting upon such attacks."

In another labor case the court refused to rule at this time on the labor union status of war-plant guards who are members of the auxiliary military police of the United States Army.

The Supreme Court vacated the Circuit Court decisions and sent the cases back to the lower courts for "further consideration of the alleged changed circumstances with respect to the demilitarization of the employees involved and the effect thereof on the board's orders."

At the end of today's session, a number of important cases argued and submitted during the current term still awaited decision. The tribunal had planned to recess in May, but postponed adjournment to next Monday, when a second extension of the term now appears probable.

SPOKANE, WASH. CHRONICLE
Cir. D. 54,328

JUN 6 - 1945

"AVOID THE APPEARANCE OF EVIL"

The grand jury which indicted a Negro on a charge of murder in Dallas county, Texas, probably acted without damaging prejudice, for the supreme court rejected his plea for interference. It is regrettable, though, that only one Negro was on the jury.

It is not enough to intrust a man's fate to his peers, that word being construed merely as his equals. Those who sit in judgment must always be of open mind. Possibly this Texas jury was, but because of the race question there always will be a shadow of doubt.

Suspicion can not be done away with entirely, but it can be held to a minimum by going to great pains not only to be fair, but to appear to be fair.

Supreme Court Denies Negro Tried Illegally

Courier Journal, Ky. - Louisville Ky.
6-5-45

Washington, June 4 (AP)—A Texas Negro lost his fight against a death sentence today when the Supreme Court rejected his argument that he was the victim of discrimination because only one Negro served on the grand jury which indicted him.

The court split 6 to 3 in upholding the Dallas County conviction of L. C. Akins on a murder charge. It was unconvinced that deliberate limits were placed on the number of Negroes on the jury but Justice Murphy, dissenting, said such limitations were proved clearly and that Akins' constitutional rights were abridged.

Reed Denies Prejudice Shown.

"Purposeful discrimination is not sustained by a showing that on a single grand jury the number of members of one race is less than that race's proportion of the eligible individuals," Justice Reed said. "A purpose to discriminate must be present."

With only one more session scheduled next Monday, the court disposed of almost one-fourth of docketed appeals, but 30 or more still were pending and a second extension of the term appeared probable.

6-5-45

The Office of Price Administration won out in cases involving its ceiling orders.

The court refused to review a decision of the emergency Court of Appeals upholding beef-price ceilings for processing packers who are estimated to handle about 85 per cent of the national beef output. The appeal was sought by Armour & Company, Chicago, which contended the maximum allowed did not meet cost of production.

6-5-45

O.P.A. Methods Are Becked Up.

The court sided 8 to 1 with the O.P.A. method of arriving at ceiling charges for building materials and consumer durable goods other than apparel. The O.P.A. said 47 price regulations on furniture, household appliances and other articles were involved.

Directly affected were sales of crushed stone by Seminole Rock & Sand Company, Miami, Fla., to the Seaboard Air Line Railway. The decision by Justice Murphy, with Justice Roberts dissenting, said it was not passing on constitutionality of O.P.A. regulations.

The court upheld the right of a minority stockholder to ask court review of a Securities and Exchange Commission order. Justice Roberts delivered the court's 8-0 opinion. Justice Douglas did not participate.

Power Case Is Issue.

The decision was given in a fight by Samuel Okin, New York investor, against an order by the S.E.C. which he said "unlawfully enjoins the collection and payment of $30,000,000 owed by American & Foreign Power Company, Inc., to Electric Bond & Share Company."

American & Foreign Power is a subsidiary of Electric Bond & Share. Okin said the debt originated from a cash loan made in 1931. He owns 9,000 shares of the common stock of Bond & Share out of a total of more than 5,000,000.

20b-1945

Virginia- State Supreme

Segregation Cases Docketed By High Court

Richmond Times
Va. 3-7-45

Five test cases involving the Virginia segregation statutes are to be reviewed by the Supreme Court of Appeals on appeals from judgments of lower courts.

The high court granted writs of error and appeals in the cases yesterday. In each case the controversy is over the accommodations provided Negroes on public buses and four of them resulted from a single incident in Fairfax County.

The other case involves an alleged incident on a bus in Middlesex County.

In the Fairfax cases, four Negroes, Marianna Musgrave, Erma D. McLemore, B. Ruth Powell and Angela Jones, boarded the bus in Vienna, Fairfax County, for transportation to Washington. The four Negro women took seats in the front of the bus, and refused to move to the rear when the driver, Mitchell B. Lee, requested them to do so.

The driver then summoned a police officer who arrested the four on warrants charging that they failed to occupy seats assigned by the driver in accordance with section 4,097dd of the State Code. Each was fined $5 in the Circuit Court of Fairfax County.

The defendants' counsel state they are not concerned with the applicability of the Virginia statute to passengers within the State, but their sole contention is that the statute cannot constitutionally apply to persons in interstate commerce. 3-7-45

A writ of error was granted in the fifth case to Irene Morgan in an appeal from the Middlesex County Circuit Court of Appeals where she was fined $10 on a warrant charging her with the same violation alleged in the Fairfax cases. She was arrested on a Greyhound bus traveing from Gloucester County to Baltimore.

The court denied an appeal to Herman Scott on a conviction in the Southampton County Circuit Court on a charge of drunk driving.

U. S. Court Rules City Must Obey

Journal & Guide
6-2-45

Newport News School Teachers Score Complete Victory

NORFOLK— The Newport News School Board is continuing its policy of discrimination on account of race and color in the payment of salaries of teachers and principals of the city's school system, in spite of a court decree issued on Jan. 28, 1943, ordering that such discrimination cease, Judge Sterling Hutcheson held in the Federal District Court here Saturday.

Judge Hutcheson said an order would be prepared charging the Newport News School Board with contempt of court.

Norfolk, Va.

Board Attorneys Study Appeal

NEWPORT NEWS, Va. — Dr. Joseph H. Saunders, superintendent of Newport News schools, revealed on Monday that the school board is awaiting a decision of Federal Judge Hutcheson that the board had failed to comply with a court directive ordering no discrimination against Negroes in the payment of salaries to teachers.

Dr. Saunders said the board would be guided by the findings of the attorneys.

FILE PETITION

Alleging that despite the court order, the school board continued to pay Negro teachers less than white teachers solely because of color or race, Miss Dorothy E. Roles and the Newport News Teachers Association plaintiffs, through their attorneys filed a petition in the court and a rule was issued for the defendants to show cause why they should not be held in contempt for failing to comply with the order of January 28.

JUDGE'S RULING

6-2-45

In announcing the decision Judge Hutcheson said:

"It is obvious that the school board in adopting the salary schedule for 1943 has not complied with the terms of the order of the court which enjoined and restrained the defendants from discriminating in the payment of salaries against the colored teachers and principals and in favor of the white teachers and principals in the public schools, solely on account of race or color, and from paying the colored teachers and principals salaries less than those paid white teachers and principals of substantially the same qualifications and experience and performing similar duties, solely on account of race or color."

In letters to Wendell L. Walker of Newport News, Leon Ransom of Howard University, and Oliver W. Hill, Richmond, attorneys, for the plaintiffs; Charles E. Ford and Alan D. Jones of Newport News, representing the defendants, Judge Hutcheson asked them to confer with him in preparing an order to put his ruling into effect.

THE COMPLAINT

The complaint, originating in 1942, charged that for a long period of time the defendants, the school board and Superintendent of Schools Joseph A. Saunders "consistently pursued and maintained a policy of paying colored teachers and principals in the public schools of Newport News salaries less than were paid white teachers and principals . . . . possessing the same professional qualifications, certificates and experience and exercising same duties and performing the same services as colored teachers and principals."

This contention was sustained by the late Judge Luther B. Way, hearing the original case, who held that the smaller salaries were paid Negroes solely because of their race and color and that this was a violation of the Fourteenth Amendment to the Constitution of the United States and Sections 41 and 43 of Title 8 of the United States Code.

DEFENDANTS ENJOINED

The court efefcted an order in 1943, enjoining and restraining the defendants from such discrimination, and the terms of the injunction were to become effective with the contracts and agreements made by the defendants for the school year, 1943-44.

NEW SCHEDULE

However, on May 11, 1943, the board put into effect a new salary schedule, which Judge Hutcheson pointed out, appears on its face to be applicable to teachers of both races, but fails to discontinue previous discrimination against Negroes.

The judge said:

"Upon its (the schedule's) adoption the teachers, white and colored, were transferred to the new schedule, being given credit for the amount of time previously employed," the opinion says. Consequently, a white teacher who entered the system without previous experience in 1933 holding a normal professional diploma at the minimum of $1,000, after seven years would receive $1,600, which amount would not be decreased under the current schedule, whereas, a colored teacher holding a normal professional diploma, who entered the system in 1933 at a salary of $600, had reached the maximum under the old schedule of $1,125 after serving eight years.

"In 1943 the colored teacher was transferred to the news schedule with credit for 10 years experience and therefore received under the new schedule, $1,350. Accordingly, with no decrease in the salary of the white teacher and annual increases for the colored teacher provided under the new schedule, five years will be required for the colored teacher to reach a salary bracket of $1,600 and be placed on an equal basis with the white teacher.

EXAMPLES CITED

"The discrimination with respect to the holder of bachelor degrees may be illustrated by the following facts: In 1934 Ramey, a colored teacher holding a bachelor's degree, entered the system at a salary of $1,000. He was transferred to the current schedule in 1943 at a salary of $1,600. In 1934, a white teacher named Bayless, holding a bachelor's degree, entered the system at $1,000 per annum, which was $200 less than the prescribed minimum, and was transferred to the 1943 schedule at $1,900 per annum. Both teachers had completed nine years of service, during which time the colored teacher, had reached the maximum of $1,525 under the old schedule but due to the adoption of the new schedule nine years service entitled him to be reclassified at $1,600. The white teacher having completed nine years service, (although entering the system at $200 less than the minimum set for white teachers), had received annual increases of $100 for nine years and upon the adoption of the new schedule, was transferred thereunder, was equivalent to 12 annual increases. Consequently the white teacher received an advantage equal to three additional years of service.

ELIMINATE DISCRIMINATION

"To eliminate the discrimination complained of, it would be necessary to place teachers of both races upon an equal salary basis. Therefore, to comply with the terms of the order the white and colored teacher should have been transferred to the new schedule at the same rate of pay, whether greater or less than the previous scales. It is apparent that the effect of the adoption of the 1943 schedule is to perpetuate the discrimination which existed prior to the issuance of the injunction in this case, so far as teachers then in the system are concerned.

"It is therefore obvious that the School Board in adopting the salary schedule of 1943 has not complied with the terms of the order of the court which enjoined and restrained the defendants from discriminating in the payment of salaries against the colored teachers and principals and in favor of the white teachers and principals in the public schools, solely on account of race and color, and from paying the colored teachers and principals salaries less than those paid white teachers and principals of substantially the same qualifications and experience and performing similar duties, solely on account of race or color."

Under the old schedule, a Negro holding a bachelor's degree without teaching experience could enter the Newport News School system at $1,000 per year and in seven years reach a maximum of $1,525, but a white teacher with the same $1,400 and reecive yearly increase for 10 years until a maximum of degree could enter at $1,200 or $2,200 or $2,400 was reached.

Court Upholds Virginia Law On Segregation

Richmond Times
6-9-45

Irene Morgan Case Is First Test Made

Richmond, Va.

Citing the Commonwealth's undisputed authority to levy taxes on interstate commerce as the basis of it position, the Supreme Court of Appeals ruled in an opinion filed here yesterday that interstate passengers on public conveyances are amenable to the racial segregation laws and dismissed an appeal in a case from Middlesex County testing the point for the first time in Virginia.

The court, sitting at Wytheville, forwarded the opinion to the clerk's office here and it was made public yesterday. The session at Wytheville was concluded yesterday and the next sitting of the court will be in Richmond.

Along with the segregation case came also the court's formal opinion in the Page County electoral board controversy involving the division of the members of the county's electoral board of three members between the two major political parties. 6-9-45

Dovel's Contention Overruled

'In this case the court held that the appointment of the electoral board is a judicial function of the court, not a ministerial act as claimed by I. R. Dovel, chairman of the Republican State Committee, who applied to the court for write of peremptory mandamus to compel the circuit judge of the county to name two Republicans to the board because of the predominance of that party in the presidential election in Page County last Fall.

Since the function of the court is judicial rather than ministerial, the court held, the selection of the board members, so long as both parties are represented, is a matter which addresses itself to the discretion of the judge making the appointment. Discretionary powers of a court, the opinion declared, are not subject to mandamus.

6-9-45

The segregation case came before the court on the appeal of Irene Morgan, a Negro woman, from a fine of $10 and costs imposed by the Circuit Court of Middlesex County. The woman also was fined $100 and costs for resisting arrest by the officers who removed her from a Greyhound bus at Saluda, but she did not appeal from this fine and it was not disturbed by the high court.

The facts in the case as recited in the court's opinion were that the woman purchased a ticket at Hayes Store, in Gloucester County, for a trip to Baltimore. When the bus reached Saluda, the woman and a companion were occupying the second seat forward from the long seat in the rear of the bus.

The two women were asked by the bus driver to move back to the long seat, the opinion said, to accommodate white passengers who were standing in the aisle. The appellant refused to move or to permit her companion to move, the court said, whereupon the bus driver called the sheriff and a deputy who sought to remoev her from the bus. 6-9-45

According to the record, the woman snatched the warrant for her arrest from the sheriff's hand and kicked him several times on the leg. She was subdued by the officers, however, removed from the bus and placed in jail.

The appeal revolved solely on the question of whether the woman, an interstate passenger, was subject to the State's segregation statute, the application of which o intrastate commerce was not denied in the pleadings. Ntither the bus company not its driver was a party to the procedings.

Gregory Writes Opinion

The court's opinion, written by Mr. Justice Herbert B. Gregory and concurred in by the other six members of the court, among other things said:

"The public policy of the Commonwealth, as expressed in various legislative acts, is and has been since 1900 to separate the white and Negro races on public carriers."

The opinion explained that the segregation statutes are enacted under the police powers reserved to the States by the tenth amendment to the Federal Constitution, and added:

"It appears that Congress has attempted to invade the so-called segregation field, but so far without success. On three occasions it has expressly refused to legislate on the subject. . . . This continued refusal of the Congress to legislate in the segregation field demonstrates its desire that the matter be left where it is now; that is, that the several States under their police powers be permitted to continue to legislate in this field." 6-9-45

Equal Accommodations

The opinion declared that the segregation statute, Section 4097dd of the Code, is no burden to interstate commerce and pointed out that confusion would result should it be enforced as to intrastate passengers and not as to interstate passengers.

The court held that the Virginia statute demands equal accommodations for white and Negro passengers on public conveyances and that a statute which did not demand such equality would be invalid. Several cases falling within the latter category were cited by Justice Gregory, notably one from Louisiana which involved a statute which undertook to segregate Negroes from the whites, but not the whites from the Negroes.

Va. Supreme Court Takes Brazen Stand on Jim Crow

afro-American
Baltimore, Md.

WYTHEVILLE, Va.—In a ruling directly contrary to previous Constitutional interpretations, the Virginia Supreme Court on Wednesday upheld racial segregation even in inter-state commerce.

The opinion, which was unanimous, was handed down in the case of Miss Irene Morgan, who was fined $10 and costs on a charge of violating the State's jim-crow law while riding a Greyhound bus from Gloucester County to Baltimore. 6-16-45

Police Power Cited

Miss Morgan was arrested at Saluda when she refused to move to the long seat in the extreme rear of the bus, from the second seat ahead, to make room for white passengers who were standing.

The Supreme Court's opinion was based on the contention that the State has full right to the exercise of police power; that the matter of enforcing racial segregation falls within this power, and that Congress, even though em- commerce, may not interfere.

Contradiction Conceded

The court conceded that its ruling was contrary to those in cases from other States. One of these was the Hart case in Maryland, in which it was made clear that segregation of passengers traveling from one State to another is in violation of the Constitution.

The Maryland Court of Appeals on March 22, 1905, ruled that the State's jim-crow statute for railroad trains applied only in intra-State travel (within the State) and not to inter-state travel.

Was H.U. Law Professor

The case was brought by William H. H. Hart, professor of criminal law at Howard University, who was ejected from a train traveling from New York through Maryland, although possessing a ticket qualifying him as an inter-state passenger.

The Circuit Court of Cecil County fined him $5 but the Appeals Court reversed this decision.

Commenting on the defense of Miss Morgan's attorneys that segregation laws may be applied only to passengers traveling within the borders of the State, the court said: 6-16-45

Confusion Feared

"Then an inter-state white passenger could occupy the rear seat with an intra-state colored passenger, and an inter-state colored passenger could occupy a front seat with an intra-state white passenger.

"This would tend to confusion and disorder, and in effect, to allow the inter-state colored and white passengers to have the run of the entire bus, while confining the intra-state colored and white passengers to the front and rear of the bus, respectively.

"The result would be that the segregation act in its entirety would effectively be disrupted."

"No Discrimination"

It was further contended in the opinion that, since the Virginia Jim-Crow Law is enforced equally against white as well as colored passengers, and the accommodations are "equal" for both races, no discrimination is involved.

A challenge to Congress to further clarify the intent of the Constitution is seen in the following excerpt from the opinion:

Congress Challenged

"The silence of Congress on this subject places it in the category (or legislative powers) where the State is allowed to act in the absence of legislation in this field by Congress. 6-16-45

"If Congress desires to nullify State segregation statutes as applicable to inter-state passengers it has the power to do so under the commerce clause.

"However, until Congress preempts this legislative field by proper enactment, the States continue to have the right to segregate the white and colored races on public carriers."

Va. Supreme Court Backs Jim Crow

IN RULING ON PUBLIC CARRIERS

RICHMOND, Va., — (ANP)— The Virginia Supreme court last week ruled in favor of Jim crow on buses and other public carriers regardless of interstate passengers in the case of Mrs. Irene Morgan, a passenger on a Greyhound bus in July, 1944, traveling from Gloucester county to Baltimore.

The supreme court upheld a lower court's $10 fine against Mrs. Morgan in accord with the following theory of raceism.

"The public policy of the Commonwealth of Virginia, as expressee in various legislative acts, is and has been since 1900 to segregate the white and Negro races on public carriers.

"So far as we are advised, no case contesting the validity of any of these segregation acts as applied to interstate commerce has been previously before this court or any attempt made to repeal them."

The supreme court pointed out that while congress has the power to regulate commerce among the states, the right to exercise police power is reserved to the states, even tho legislation enacted by a state under this authority "may incidentally affect interstate commerce.

"The Virginia segregation statutes have been enacted under the police power of the state reserved to it in the tenth amendment to the United States constitution.

"Unless it is shown that the statute here challenged directly or unreasonably interferes with interstate commerce, it is a valid enactment. There is no evidence in this case that the rule of the carrier or the statute under which it was promulgated does so."

(It wa conceded by counsel that equal facilities for both races were provided in the Greyhound bus lines, and that no discrimination existed in the quality of accommodations.)

"The general rule is that if the enactment which requires the segregation of races according to color directly or unreasonably interferes with commerce, it is not constitutional. But unless the regulation unreasonably burdens commerce, it is valid."

The court reviewed a number of cases upholding the validity of segregation laws, but conceded that "there are cases from several states which support the contention that a segregation statute is unconstitutional as respects interstate commerce.

No case from the supreme court of the United States has directly considered the issue raised in the Irene Morgan case, the Virginia court commented.

The Virginia segregation statutes have been enacted under the police power of the State reserved to it in the tenth amendment to the United States constitution.

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No case from the Supreme court of the United States has directly considered the issue raised in the Irene Morgan case, the Virginia court commented.

The Virginia tribunal held in its opinion that until congress takes action on the matter of segregation in interstate commerce, the states are fully within their rights in enacting legislation under their police power. Congress has attempted "to invade the so-called segregation field but, so far, without success," the opinion stated.

"On three occasions it has expressly refused to legislate on the subject, and there is now pending in the committee on Interstate and foreign commerce a bill known as HR-1925, by which it is again sought to abolish segregation on public carriers. What the fate of this latest attempt will be, is of course not known."

Virginia Supreme Court Backs Jim Crow Travel

State Will Not Abandon Policy

RICHMOND, Va.—(ANP)— The Virginia Supreme court last week ruled in favor of Jimcrow on buses and other public carriers regardless of interstate passengers in the case of Mrs. Irene Morgan, a passenger on a Greyhound bus Gloucester county to Baltimore.

The Supreme court upheld a lower court's $10 fine against Mrs. Morgan in accord with the following theory of racism:

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"So far as we are advised, no case contesting the validity of any of these segregation acts as

20c-1945

Arkansas

U. S. Court Reverses Decision Against Arkansas Negro Teachers

Newton Herald
the Informer

LITTLE ROCK.—Last week the U. S. Circuit Court of Appeals reversed the District Court, which had held against the Negro teachers in their fight for equalization of pay here last year, holding that the school authorities at Little Rock had been, and still were at the time the suit was filed, maintaining the policy, usage and custom of discriminating against Negro teachers on account of race alone. 7-7-45

The judgment of the district court, which had dismissed the complaint last year, was reversed. The case was remanded with instructions to the district court to enter forthwith a declaratory judgment as prayed for by the plaintiff on behalf of all Negroes.

The court was also instructed to reserve jurisdiction, in order to be able to give further relief to make the order effective, in case the plaintiff needs to appeal to the court for further relief. 7-7-45

The decision is significant, because it analyzes the subterfuges and the claims by the Superintendent and the other officials that they had arrived at different salaries on the basis of merit, different training and the like, and not on the basis of color. But after giving all the credit to these statements that was possible, the court held specifically and definitely that the record showed discrimination, and that the difference between the pay of whites and colored was on a basis of color. This strips from school officials all expedients by which any kind of lies would be told, and the tradition of the courts would make them refuse to go behind the lies and expose them. Now it is a question of shoot Luke or give up the gun, at least in the Eighth District. 7-7-45

The case was tried by Attorneys Thurgood Marshall and J. R. Booker. On appeal Judge Wm. H. Hastie, Attorneys Edward R. Dudley and Miles A. Hibbler joined the other two lawyers. Also the American Civil Liberties Union filed a brief amicus curae in the case.

53 DINER EMPLOYES INDICTED FOR FRAUD

12/22/45
New York Times

Indictment charging fifty-three employes of the New York Central Railroad with conspiracy to steal from dining cars operating in interstate commerce were returned yesterday by a Federal grand jury.

The defendants are members of dining car crews operating out of New York City and Buffalo, N. Y. They include chefs, cooks, waiters and four stewards who allegedly defrauded the railroad of $70,000 to $100,000 in a year. 9/28/45

In some cases, according to Assistant United States Attorney Thomas F. Murphy, waiters failed to supply meal checks to passengers, making it possible to use the same checks again and to divide among the crew the money received from the extra meals. Another scheme, he said, was to cut down portions and add "fillers" to meat dishes. Some Government meal checks issued to service men were alleged to have been altered to make it appear that a larger number of meals had been served.

The system was said to have been controlled by four stewards, who netted $25 to $50 a trip while the other defendants received as much as $10. N.Y. N.Y.

The stewards indicted were Harold O'Connell of 111-15 Seventy-fifth Avenue, Forest Hills, Queens; Malcolm F. Austin of 36 Westview Avenue, Tuckahoe; Robert M. Barton of 235 West 102d Street and Delmar F. Stanton of Springfield Avenue, Ardsley, N. Y.

RAILROADS IN SOUTH HIT BY RULING

Pittsburgh, Pa. Courier

Federal Court Judges Rule That Negro Passengers Must Be Seated and Served Wherever Vacancy Exists

BALTIMORE, Md. — Three judges of the Federal District Court ruled here last week that railroad companies must seat Negro patrons wherever there is a vacancy in dining cars. The epochal decision is expected to have far-reching effects on the conspicious policy of Southern railroads which have made a practice of compelling Negro dining car customers to eat meals with a curtain drawn around their tables.

REVERSES ICC

The decision was hailed as one of momentous significance and it is expected to terminate the highly objectional "curtain service" on the far-flung railroads of the South. The Federal Court's opinion was written by Judge William C. Coleman and concurred in by Associate Judges Morris A. Soper and W. Calvin Chesnut. The decision reverses a previous ruling by the Interstate Commerce Commission which held that although the Southern Railway was guilty of discrimination, the case warranted no action in that the discrimination was the result of "bad judgment of a railway employe."

The suit was filed by Elmer W. Henderson, regional director of Chicago's FEPC office, while en route from Washington to Atlanta in May of 1942. Mr. Henderson charged that he had been denied space in a Southern Railway dining car. He said that although two tables in the diner had been reserved especially for Negro passengers, he was refused service because at the time the "reserved tables" were occupied by white people. Mr. Henderson also asserted that he had declined an offer to be served in his Pullman seat.

The suit, sponsored by the Alpha Phi Alpha fraternity, was argued by Atty. Belford V. Lawson Jr., prominent Washington (D. C.) lawyer.

U.S. Court Reverses ICC On Dining Cars

The Journal and Guide
Norfolk Va.

BALTIMORE—(NNPA)—A three-judge Federal Court last week held that the Southern Railway's regulations on the treatment of colored persons in its dining cars are inadequate, thus reversing a previous decision by the Interstate Commerce Commission. 12-29-45

The suit involved alleged discrimination against Elmer W. Henderson of Baltimore who asserted he had been denied space in a dining car. The ICC had ruled the railway was guilty of discrimination, but dismissed the complaint on the grounds the discrimination was the result of "bad judgment of an employee."

The Federal Court, however, ruled that the railway's regulations are inadequate because they fail to provide tables reserved exclusively for colored travellers. The opinion was written by Judge William C. Coleman and concurred in by Judges Morris A. Soper and W. Calvin Chesnut.

Mr. Henderson, who is regional director of the Fair Employment Practice Commission in Chicago, asserted that he was refused space in a diner while traveling on official business from Washington.

He said that although the railway had reserved two tables, especially for colored persons, set apart from the others by a curtain, he was not admitted to the diner because the tables were occupied at that time by white persons. It had been the railway's practice, he asserted, to use the tables for serving whites when the remaining tables were occupied and no Negroes asked to be served.

Mr. Henderson declined an offer, he said, to be served in his Pullman seat. 12-29-45

The case was remanded to the ICC for further action.

SPONSORED BY FRATERNITY

The suit, which has been sponsored by the Alpha Phi Alpha Fraternity, was argued by its general counsel, Belford V. Lawson Jr., well known Washington attorney, who also argued and won the famous picket case involving the New Negro Alliance in the Supreme Court several years ago. This recent decision has many implications for Negro travelers and can be interpreted to put an end to the present practice of having Negroes stand in the aisles when seats are available in white coaches. 12-29-45

The case was undertaken by Mr. Lawson and the Alpha Phi Alpha Fraternity, long associated in legal battles for the protection of the Negro's civil rights, as a test of the doctrine of "substantial equality under like conditions" laid down in the Mitchell case.

Another of the fraternity famous cases resulted in the admission of Negroes to the University of Maryland's Law School. It is especially significant at the present time because of the recent activity of the Alabama legislature to extend jim-crow practices affecting first-class interstate Negro passengers. It remains to be seen whether such a trend, or the one evidenced by the important advance against restrictive covenants in California, will gain ascendency in the postwar period. 12-29-45

20c-1945 Florida U.S. Inferior Court

Florida Teacher Wins Salary Suit

AFRO-American

MANATEE, Fla. — A final decree in favor of Miss Frances H Stephens, who sued the Manatee school board for equalization of her salary with that of whites, was entered last week and the new salary scale will go into effect July 1. 3-31-45

The decree was entered by Judge Barker in Federal Court with the consent of attorneys for both parties after the Manatee County board of public instruction submitted a new non-discriminatory salary scale for school teachers. 3-31-45

Judge Barker declared that it was unnecessary to rule on the constitutionality of the question of racial discrimination raised in the suit since the new salary schedule adopted by the board was satisfactory to the plaintiff.

Sets Up Rating System

Under the new system, a teacher's ability, educational attainments, cultural background, effectiveness in teaching will be studied and his salary based thereon by a rating committee appointed by the board and composed of the superintendent and other educators. Balt. Md. 4-14-45

Miss Stephens, who brought the suit individually and on behalf of all other colored teachers and principals, charged that colored teachers were paid lower salaries than whites with similar qualifications in violation of the Constitution. 3-31-45

S. D. McGill, Jacksonville attorney, represented Miss Stephens, while W. J. Daniels and Velma Keen of Bradenton and R. W. Shackleford of Tampa, all white, represented the school board.

Fla. Negro Teachers Lose In United States Circuit Appeals Court

Informer — Houston, Tex.
5-5-45

By JOHN E. ROUSSEAU, JR.

NEW ORLEANS, La. — The revised salary schedule for public school teachers of Dade county (Miami) Florida, was upheld by the United States Fifth Circuit Court of Appeals here Monday, April 23. The court ruled that the present schedule shows no discrimination because of race or color between white and Negro teachers and principals.

Monday's finding in the Circuit Court of Appeals resulted from an appeal filed by Hubert C. Reynolds in behalf of himself and others having common rights and interests, against the Board of Public Instruction for Dade county, State of Florida, and James T. Wilson, superintendent.

The appeal, filed February 24, 1945 by Charles H. Hyde and E. L. Semple, attorneys for Reynolds, contended that white teachers were paid higher salaries under the revised schedule than Negroes "solely because of their race and color."

Monday's opinion, reached after the case had been studied by U. S. Circuit Judges E. Waller, Samuel Sibley and Elmo Lee, upheld the decision of the United States District Court for the Southern District of Florida which was rendered on March 7, 1944.

5-5-45

The case had its beginning when Negro teachers of Dade County contested or complained on November 4, 1941 of the unconstitutionality of a "black and white" salary schedule which had been adopted by the Board of Public Instruction on December 11, 1940.

New Schedule

On November 5, 1941, according to the "black and white" schedule was abolished and the superintendent was ordered to prepare a new schedule. According to the appeal, no special instructions were given the superintendent but three weeks later he reported to the Board for adoption a schedule and stated that all teachers had been classified and rated. The appeal pointed out that "within the incredibly short time of 3 weeks the Superintendent and his employees had performed the 'tremendous job' of evolving the pioneer schedule in addition to rating every one of the 1,200 or more teachers.

5-5-45

Contending that while the "black and white" schedule which provided more remuneration for identical services rendered by white teachers than for services rendered by Negro teachers had been abolished, the discrimination which had been openly practiced in that schedule was covertly continued in the new system and there was little or no change in salary differences between the white and Negro teacher groups, Hubert Reynolds filed formal complaint on February 17, 1942.

On March 7, 1944, Judge Strum, in the United States District court, upheld the salary schedule that was adopted in place of the "black and white" schedule, ruling that the salary schedule of 1940 appeared on its face to make a color discrimination but that schedule had been abolished at the time the suit had been instituted.

The district judge replied: "At the time of the institution of this action substantially lower salaries were paid to the group composed of Negro teachers and principals than were paid to the white teachers and principals as a group. The difference in the salaries so paid was not occasioned by the arbitrary act of the defendants, nor was such differential the result of an intentional, deliberate or systematic scheme to discriminate against the Negro teachers and principals as a group, but resulted from the exercise of the judgement and discretion of the defendants as public officials in evaluating the worth and effectiveness of the respective groups.

Announcing the decision of the Circuit Court of Appeals, Judge Samuel Sibley said Monday: "This holding we approve. The above quoted findings, however, do not relate to the old schedule but to the new, first at the date of filing the suit, and next at the date of the trial. They mean not that group discrimination was intentionally continued, but that individual classification was made irrespective of color, and that the continuance of disparity between groups was not a continuation of class discrimination, but the result of honest effort to classify the individuals.

In the appeal it was cited: "Prior to the institution of this suit and up to the time of the trial the appellees (defendants) pursued a policy and custom of discriminating unconstitutionally because of race or color against the appellants by paying less salaries to the colored than to the whites of similar qualifications and performing like servives; that the various systems of rating and grading were evolved for the purpose of lending credibility to the defendants' claim of non-discrimination, when, as a matter of fact they are a sham and a subterfuge behind which to hide a fixed and determined intention of discrimination."

Negroes Not Qualified

Judge Sibley's opinion pointed out: "The new basis of individual classification resulted in the change in the salary of many individuals, both white and colored, though it remained true that as a group the white were rated higher than the colored as a group. The witnesses all said this was not due to any prejudice or discriminatory purpose, but because on the average the Negroes were not so well qualified in education, background, personality, and other things required by the schedule to be considered in classifying them.

"Superintendent Wilson said this: 'The Negro is not an inferior race. The Negro is an undeveloped race, as we know him in the South; and I believe from my educational training and my experience with the Negro that if you give him the same training, the same background, the same food, the same environment, he will become and be as capable as a white man. That has not prevailed in Dade county, and it does not prevail in Dade county at the present time. I say it with all tolerance and great sympathy for the problem which we face.'

Judge Sibley concluded: "The trial judge saw and heard the witnesses testify and believed them. We do, too. We are much impressed by a fact he did not mention. The ammended salary schedule contains this provision: 'If any employee be dissatisfied with the rating received, an appeal may be made to the Board and the Board shall promptly make available, at no expense to the employee, an examination under the Supervision of the National Committe on Teacher Examinations, the results shall be final and said employee increased or decreased accordingly. Not a single appeal to this disinterested arbiter has been taken.

20c-1945

Voids Lily-White Primary In Major Court Decision

Chicago Defender
Chicago, Ill.
10-20-45

By JOHN LeFLORE
(Defender Staff Correspondent)

MACON, Ga.—Georgia's traditional white primary rule went down this week in smashing defeat when Federal Judge T. Hoyt Davis ruled that Negroes were entitled to vote in Democratic primaries. Without mincing words, the Judge of the Middle Georgia District of the Federal Court, declared that "to bar a person from voting because of his race constitutes a violation of the Fourteenth, Fifteenth and Seventeenth Amendments of the United States' Constitution.

"The Democratic party is the dominant and controlling political party in Georgia. No other party has held a statewide primary during the past forty years.

"The holding of the said primary was action by the state of Georgia, acting through the Democratic Party as its instrumentality. Plaintiff's right to vote in said primary election is a right secured by him by the Constitution and laws of the United States."

Judge Davis' ruling was made in the case of Rev. Primus E. King of Columbus, who brought suit against members of the Muscogee County Democratic Executive committee for denying him the right to vote in the July 1944 primary.

King Awarded Damages

The court also ordered payment of $100 damages to Rev. King, "together with future interest thereon at the rate of 7 per cent per annum."

In an exclusive interview to the Defender, Dr. Thomas H. Brewer, Sr., of Columbus revealed the history of the case which was filed by local citizens of Muscogee County. 10-20-45

In June, 1944, Dr. Brewer stated, a group of eight Negro citizens approached Chairman Joseph Chapman of the Democratic Executive Committee of Muscogee County and requested that provision be made for Negro citizens to vote in a coming election for sheriff.

Chapman told the group that the committee had discussed and voted against Negroes participating. The vote was six to five against the Negro vote. 10-20-45

Texas Case Example

Taking example from the case of the Texas primary case in which Negroes successfully contested their right to vote, the group, of which Dr. Brewer was spokesman, threatened to file suit.

The Negro group was barred from the polls on the day of the sheriff election, but on the advice of their attorneys, withheld action until the general election in July of county, state and federal officers.

Rev. Primus King, C. B. Marshall and Dr. Brewer, all of Columbus, were again barred by county police. The suit was filed by Rev. King. Chapman, chairman of the Democratic Executive Committee, agreed that the case would be a test case to test the validity of the white primary ruling.

The case was scheduled to come up in March, '45, but the plaintiffs were advised that the new state constitution which was to be drafted in an extra session in the legislature would do away with white primaries. 10-20-45

Primaries Not Mentioned

The new constitution was ratified in August, but the white primary was not mentioned. The hearing in the Federal Middle District Court finally opened September 12. Main points of controversy involved comparisons of Georgia and Texas law.

Decision was based on the fact that although primaries are not compulsory in all Georgia counties, if they are held they are state controlled, and not controlled by individual groups or persons.

Since primaries are compulsory in Muscogee county, and therefore subject to state control, the constitutional rights of citizens rejected from participation are violated.

One Negro Attorney 10-20-45

Dr. Brewer and C. B. Marshall were chief witnesses in the case. Local attorneys Harry E. Strozier, white, of Macon, O. D. Smith, white, of Columbus and Arthur D. Shores of Birmingham represented Rev. King.

Dr. Brewer told the Defender: "Taxation without representation was declared wrong at the time of the American Revolution. It is time it was outlawed in Georgia. From now on the Negro citizens should be able to vote in all elections—to enjoy some of the democracy we have only read of, and never enjoyed."

Freedom For Screws

The Atlanta Daily World - Atlanta, Georgia

An all-white federal jury at Albany last Thursday absolved Sheriff Claud M. Screws and his two deputies Jim Kelley and Frank Jones of all responsibilities in the brutal slaying of Robert Hall, Newton, Georgia Negro. The evidence against the trio was overwhelming. The accused men were previously convicted in federal court at Albany on October 7, 1943, and were sentenced to three-year prison terms and fines of $1,000 each.

Under the terms of the court, a new presiding judge, prosecuting attorney and other officials were required by law. But the same witnesses, same incontrovertible evidence remained the same, except three other witnesses appeared against him and this time, unlike the first, attorneys for Screws admitted to the open court that the warrant on which Hall was arrested was falsely drawn and executed.

11-4-45

It is difficult to understand now, in the face of such a mass of evidence, a jury could find grounds on which to grant freedom to these men. It is even more difficult to understand on what grounds the Supreme Court could direct a new trial in such a situation, except on the closest technicality of interpretation. Nevertheless, it will do no good now to indulge in a review of the facts in such a case. Those of us who had pinned our hopes upon this case as a test for all civil liberties cases to be tried for violations, will of course, be disappointed in the outcome. And no matter how serious an effort may have been advanced by all concerned to bring the men to account, we still cannot forget the fact that a man was deprived of his life, without even the due process of law.

20c-1945

New Jersey

24 Rail Workers in Guilty Pleas

the afro american
Baltimore Md.

NEWARK, N.J.—Federal Judge Thomas F. Meaney on Thursday set Nov. 30 for sentencing of 24 former Erie Railroad employees who pleaded guilty in Federal Court of fraud growing out of a swindle plan revealed in August by FBI agents. 11-17-45

The 24 defendants who pleaded were among 118 apprehended by FBI agents posing as student stewards and waiters after probing two months for alleged conspirators, who violated the Interstate Commerce Act on the Erie and New York Central railroads.

The FBI charged railroads were swindled out of $100,000 annually by dining car stewards and waiters. 11-17-45

Net Closed Aug. 17

The net was closed on the alleged violators on Aug. 17, but a record of the case was impounded until Aug. 23, when 44 were nabbed in New York, 25 in New Jersey, 14 in Buffalo and 26 in other States.

The defendants, four of whom are white and four women, were held for Federal grand jury action in bail ranging from $500 to $2,000.

They are liable to 12-year prison terms and fines up to $15,000 if convicted.

Four New Jersey defendants, all of Jersey City, were held for conspiracy. One pleaded guilty to that charge also before Judge Meaney on Thursday. 11-17-45

List Defendants

The Jersey City defendants included Alexander H. Booker, 33, Kearny Ave.; Samuel Green, 579 Bramhall Ave.; Frederick A. Oliver, 13 Seidler St., and Reginald B. Jerome, 153 Myrtle Ave., who pleaded to conspiracy.

New York defendants included: Clarence D. Anderson, 201 W. 145th St.; Carter Brown, 510 W. 144th St.; Clark F. Douglass, 850 St. Nicholas Ave.; James G. Douglas Jr., 1925 St. Nicholas Ave.; Alfred C. Harris, 9608 Northern Blvd., Corona, L.I.;

Frank Harris, 407 W. 148th St.; Louis Hatcher, 654 St. Nicholas Ave.; Isaac Lloyd, 1070 Jackson Ave., Bronx; Walter E. Redman, 546 W. 148th St.; David A. Wade, 2936 Erskin St., Elmhurst, L.I.; Joseph E. Williams, 86 LaSalle St.; Nathaniel R. Williams, 456 W. 148th St.; 11-17-45

Clarence E. Willis, Walter Vaughn, Eugene G. Turpin, Dumas M. Redmond, Clarence Mills, Joseph McKee, Henry C. Kelly, Henry E. Holliday, Thomas J. English, James H. Davis, and Alfred Cain.

20c-1945

Grand Jury Indicts Dining Car Workers

NEW YORK — (NNPA)— Fifty-three employees of the New York Central Railroad company, members of Pullman dining car crews on trains operating between New York and Buffalo, were indicted by a grand jury in United States District Court here on Wednesday of last week charged with conspiracy to steal from dining cars operating in interstate commerce.

The defendants are stewards, chefs, cooks and waiters, E. E. Conroy, special agent in charge of the Federal Bureau of Investigation office here, said. He said they had defrauded the railroad of between $70,000 and $100,000 in the year preceding V-J Day.

Most of their victims were soldiers and sailors destined for overseas service, Mr. Conroy said. The service men were given short rations on the travel forms provided by the Government. The defendants also victimized passengers who obviously were unfamiliar with dining car routine.

20c- 1945

U.S. Inferior Court South Carolina

Teachers Win 2nd Afro-American Pay Case in S.C.

COLUMBIA, S.C.—A decree ordering the local school board to abolish discrimination in teachers' salaries based upon race or color, was entered here May 26 by Judge J. Waties Waring of the U.S. District Court. 6-9-45

The suit, filed last February, was heard on May 9 with Albert N. Thompson as plaintiff, represented by Edward R. Dudley, special assistant NAACP counsel, and Arthur D. Shores and S. Morgan, attorneys. Balt. Md.

This is the second suit won by a colored teacher in South Carolina for equalization of salaries, the first being handed down also by Judge Waring in February, 1944, in the case of DuVal vs. the Charleston School Board, when a consent decree was entered.

System Biased 6-9-45

Judge Waring said in his local decree that the present school board inherited a system that undoubtedly, prior to 1941, had in it a large disparity in salaries, and "it was evident that this resulted from racial differences."

The court made the decree operative after April 1, 1946, the school board having testified in its defense that it was working out a plan to equalize salaries. However, when determined, the 1945-46 salaries will be retroactive to beginning of the term. 6-9-45

Under the new re-certification plan governing teachers' salaries which the board may adopt, classifications are as follows: those with master's degrees, those having partial graduate training, those having college degrees, and those with two years' college training.
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20c-1945 Virginia U.S. Inferior Court

U.S. Court Rules Va. School Board Evaded Equal Pay

Afro-American 6-2-45

Balt. Md.

By STAFF CORRESPONDENT

NEWPORT NEWS, Va. — Colored teachers, whose uncompromising battle with the school board for equal salaries dates back to 1942, won a significant victory in Federal Court here, Saturday, when Judge Sterling Hutcheson ruled that the board was "in contempt" for failure to obey a previous order in the matter.

On Jan. 28, 1943, the late Judge Luther B. Way decreed, in the original case of Dorothy E. Roles and the Newport News Colored Teachers' Association, that the salary differentiations, as alleged, were predicated solely on race or color.

He ruled that they were "unlawful and unconstitutional, and in violation of the 'equal protection' clause of the 14th Amendment," Judge Way enjoined and restrained the defendants (the superintendent and school board) from such discrimination.

The injuction became operative as to contracts and agreements made by the defendants for the school year, 1943-1944. On May 4, 1944, the teachers' association filed a petition charging that the court order was not being obeyed.

Judge Hutcheson granted the petition calling on the school board to "show cause" why it should not be held in contempt of court for failure to fulfill the court's decree, and the hearing began on Oct. 9, 1944.

Judge Hutcheson handed down his rules after going over voluminous records, largely contracts and school board minutes, dating back ten years, as well as the testimony of the superintendent, Dr. Joseph H. Saunders; S. D. Green, clerk of the board; and Dorsey C. Pleasants, chairman.

The jurist said an order would be prepared charging the board with contempt of court. The board has not indicated any intent to appeal the ruling, but the judge is expected to call a conference of attorneys for both sides to "straighten out" the matter.

Separate salary scales for colored and white teachers, and their professional qualifications featured the hearing. R. Wendell Walker, Newport News; Dr. Leon A. Ransom, Washington, D.C., and Oliver W. Hill, Richmond, represented the teachers, the latter two being NAACP counsel.

20d-1945

A Second Look

Afro-American
Baltimore, Md.

by J. Saunders Redding

Within the period of a month three separate court decisions have advanced and strengthened the colored American's position in the field of labor. Taken either of themselves or as steps in the long, hard march to equality in labor, the decisions are of far-reaching importance.

In the first of these—a case brought by a colored fireman against the AFL Brotherhood of Locomotive Fireman and Enginemen and the Louisville and Nashville Railroad—the U.S. Supreme Court ruled that a labor organization which refuses membership on the basis of color but which nonetheless is the bargaining agent for the entire craft must represent all employees in that craft impartially. 1-20-45

Promotions Withheld

In this instance the union had entered into an unfair agreement with certain railroads to the end that our firemen were not to be promoted to engineers and that only promotable (that is, white) men should be employed as firemen.

The agreement meant that a colored fireman like Bestor Steele, who was the plaintiff in one case, even after years of efficient service, could not be promoted. It also meant that in the near future colored firemen would be non-existent.

The Court's decision, which also substantially covered the suit brought by Tom Tunstall against the Norfolk Southern Railway, will certainly stand. There is probably a disposition on the part of the union to get around it, but the expression of this disposition is still in the future.

California Decision

The other case which has great meaning was decided by the Supreme Court of California on January 2. This Court's decision overthrew a practice of long standing when it declared that a "closed union"—that is, one which discriminates on the basis of color—cannot negotiate for a "closed shop." 1-20-45

In short, the Court ruled specifically that a California local of the Boilermakers Union (AFL) must either admit applicants to full voting membership without regard to color or forego the cardinal labor principle of closed shop agreements.

This is the legal validation of a matter for which colored labor has b[illegible] fighting over a long perio[illegible] thout it the colored labore[illegible] often forced into the [illegible] scab. Even as a member of an auxiliary colored local, he had no representative power and no rights which the parent local was bound to respect.

Get Full Membership

All this is now changed, or on the way to change, because of the California Court's ruling. Unionized labor must have a closed shop to survive, and to have a closed shop (this is the sense of the ruling) unionized labor must admit men to full union membership without regard to color.

Whether this decision of the California court will stand is a question for the future to answer. If it does, then the struggle of a quarter of a century wil be over.

If it does not stand (a possibility almost too reactionary to consider), then the principle the decision sets forth will suffer; but it will not die—equalitarian principles do not die easily in the hearts of men — and it will be used again as the motive force of a new struggle.

Question The Case Involved Is 'Moot'

Kansas City, Mo.
1-19-45

Challenged Negro Quota In Army Draft

WASHINGTON, D. C. — (NNPA) — Having once refused to hear the Lynn case on the grounds that the case was "moot," the Supreme Court has again denied review of the case on an appeal from its previous ruling.

The Lynn case challenges the legality of the Negro quota system in the selection of military trainees under the Selective Service Act. Wilfred Lynn, now a corporal serving in the South Pacific, based his legal argument on Section 4 (a) of the Selective Service and Training Act which states that "in the selection and training of men under this act—there shall be no discrimination against any person on account of race or color." 1-19-45

In Different Camp

The court held the case to be "moot" because Lynn was no longer in the custody of his first commandant at Camp Upton, N. Y.

The Lynn Committee to Abolish Segregation in the Armed Forces, which secured for the case the services of Arthur Garfield Hays, noted civil liberties attorney, voiced sharp protest over the Supreme Court's latest action. Wilfred Kerr, chairman of the Lynn committee, declared:

"By refusing to hear the Lynn Case to test the Negro quota system of induction, the U. S. Supreme Court has given the colored people a slap in the face for a New Year's gift. The Supreme Court knows that the Negroes consider the racial quota humiliating and undemocratic. Therefore, it fears having to make a decision on a question so vital to Negro morale.

"This hedging is a retreat from its liberal attitude on the Texas primary case and on the railway labor case and its effect will be to infuriate the colored people of the nation. They will only redouble their efforts to democratize our military services; the fight will not be over until it is won." 1-19-45

Denied Once Before

Previously, on May 29, 1944, the Supreme Court refused to review the Lynn case on the grounds that the case was "moot"—i.e., could not be determined one way or another—because Winfred Lynn was no longer in the custody of his first commandant at Camp Upton, N. Y. 1-19-45

At the time of the "moot" decision, the Lynn Committee stated that the Supreme Court was taking no notice of the fact that Lynn was no longer in the custody of his first commandant because he was serving in the Pacific theater of war. It was the appeal of the "moot" decision that was just denied.

Rules Officers Not Properly Convicted

Journal & Guide
Norfolk, Va.
5-19-45

Handcuffed Prisoner Beaten To Death With Blackjack

Special to Journal and Guide

WASHINGTON, D. C. — The United States Supreme Court has ordered new trials for three Georgia officers who were convicted, under the federal law, of beating to death Robert Hall, a handcuffed Negro prisoner, with their fists and a blackjack. The court's vote on Monday, May 7, was five to four.

The majority opinion was written by Justice William O. Douglass, who is regarded a one of the most liberal members of the court. He described the case as a "shocking and revolting episode." He explained, however, that the three officers had not been properly convicted under Section 20, a law passed during the Reconstruction era to make enforceable the Fourteenth Amendment mainly to protect the civil rights of Negroes.

Members of the bar said Justice Douglass' construction of Section 20 was one of the most significant steps taken by the Supreme Court in many years, and that it would have a great bearing on future prosecutions for violation of civil liberties.

Commenting on the controversial legal term "willfully," Justice Douglass explained that the "specific intent," required by Section 20, "is an intent to deprive a person of a right which has been made specific either by the expressed terms of the Constitution, or laws of the United States, or by decisions interpreting them."

The majority opinion held that the judge in the Hall case had not properly instructed the jury and thus had not submitted the question of willful intent, but instead had made his charge too broad.

Supporting the majority opinion were Chief Justice Harlan F. Stone, Justices Hugo L. Black and Stanley F. Reed and Justice Wiley Rutledge who did so only because the case would have been stalemated otherwise. He said he would like to have sustained the convictions of Claud Screws, sheriff of Baker county, Frank Jones, a policeman, and Jim Bob Kelly, a special deputy.

DISSENTING OPINION

Justice Frank Murphy of the minority dissented because, in his opinion, the evidence plainly showed that the three officers "willfully, or at least with wonton disregard of the consequences," killed the prisoner. In a dissenting statement read by Justice Felix Frankfurter and supported by Justices Owen J. Roberts and Robert H. Jackson the opinion was expressed that the three officers should not have been prosecuted under Section 20 of the Federal law.

They held that the law was confined by the reconstruction statement in Congress "to attempted deprivations of Federal rights by State law and was not extended to breaches of State law by its officers."

U. S. Supreme Court Refuses To Upset Texas Conviction

New York Age
6-9-45

WASHINGTON, D. C. — The United States Supreme Court on Monday declined by a 6 to 3 vote, to reverse the murder conviction of L. C. Akins, of Texas, on the grounds that he was the victim of discrimination because only one Negro served on the grand jury that indicted him

The court, divided 3 to 3, in upholding the Dallas County conviction, said it was unconvinced that deliberate limits were placed on the number of Negroes on the jury, but Justice Murphy, dissenting, said such limitations were clearly proved and that Akin's constitutional rights were abridged.

Justice Reed, in the majority opinion, declared that it could not be said that the three jury commissioners violated their obligations. Fairness in selection, he declared, "has never been held to require proportional representation of races upon a jury." 6-9-45

Justice Murphy, in dissenting, said "The State of Texas, in insisting upon only one Negro representative on the grand jury panel, has respected no right belonging to petitioner." N.Y.

Other dissenters were Chief Justice Stone and Justice Black.

Supreme Court Rules Out "Dixie Justice" Murder

VENICE T. SPRAGGS
(Defender Washington Correspondent)

WASHINGTON, D. C. — One of the most important victories in the long fight for civil liberties for Negroes in the South was achieved in the U.S. Supreme Court this week.

In a historic decision, the high tribunal established the right of the Federal government to prosecute a state officer who wilfully deprives any citizen of his constitutional rights.

By a vote of five to four, the court ruled that the three Georgia law officers convicted for beating Robert Hall a handcuffed Negro to death could properly be tried and sentenced under Section 20 of the Federal Civil Rights law.

The decision upholds the constitutionality of Section 20 enacted in Reconstruction days, to implement the Fourteenth Amendment chiefly in protecting the rights of Negroes. It also establishes the right of the Federal government to use it.

Hereafter, any State officer who in connection with his duty as a law enforcement officer beats a Negro prisoner to death, he is subject to prosecution under the Supreme Court's rule. Moreover, any other right of Negroes protected by due process of law which is taken away can also be prosecuted under the decision.

Order New Trial

While penalties made possible by the decision may be in violation of Section 20 of the Civil Rights law only—even where the violation results in the death of the prisoner, it is considered a decided victory viewed in the light of State procedure which generally frees the perpetrators on the grounds of "justifiable homicide."

The court ordered a new trial for Claude Screws, former sheriff of Baker County, Georgia, and those who assisted him in the crime, Frank Edward Jones, a policeman, and Jim Bob Kelly, a deputy.

Justice William O. Douglas, long hailed as one of the court's most positive liberals wrote the majority opinion. He denounced the case as involving a "shocking and revolting episode in law enforcement."

Mr. Douglas gave as reason for ordering a new trial for the officers that the trial judge had not properly instructed the jury in the previous trial on the question of wilful intent. He said the judge had made his charge too broad.

Beat Handcuffed Victim

Screws enlisted the assistance of Jones and Kelly in arresting Hall, a 30 year-old Negro on a charge of stealing a tire. He was handcuffed and taken by car to the courthouse. As Hall alighted from the car the officers began beating him over the head with their fists and later with a black jack until he was unconscious.

They claimed that Hall, although handcuffed, had reached for a gun and used insulting language. The officers dragged the prisoner feet first through the court house yard into the jail and left him on the floor dying.

Chief Justice Harlan F. Stone and Justices Hugo L. Black and Stanley F. Reed joined Justice Douglas in his opinion. So did Justice Wiley Rutledge, but only because he did not want to see the case stalemated. Justice Rutledge said he would have liked to sustain the conviction of the officers without further trial.

Murphy Dissents

Justice Frank Murphy dissented. He said the evidence showed clearly the officers had killed Hall "wilfully or at least with wanton disregard for the consequences." Continuing, he said, "Too often unpopular minorities such as Negroes, are unable to find effective refuge from the cruelties of bigoted and ruthless authority."

While he pointed out that States are "undoubtedly capable of punishing their officers who commit such outrages," but, where the states as in the Hall case are "unwilling for some reason to prosecute such crimes, the federal government must step in unless constitutional guarantees are to become atrophied," he said.

Upholding the responsibility of the States to punish their own guilty, Justice Felix Frankfurter joined by Justices Owen J. Roberts and Robert H. Jackson, held that the prosecution of the Georgia policeman should not have been conducted under Section of the Federal law.

Question State Responsibility

They contended that "the practical question is whether the States should be relieved from responsibility to bring their law officers to book for homicide by allowing prosecution in the federal courts for a relatively minor offense carrying a short sentence. They also raised the question as to whether civil liberties have been made more or less secure by "accomplishing this relaxation of State responsibility."

Section 20 originated in the Civil Rights act of April 1866 and was placed on the statue books on May, 1870. While it has come before the courts in a good many forms, this marks the first time since its enactment that it has reached the Supreme court.

It provides: "Whoever, under color of any law, statue, ordinance, regulation, or custom wilfully subjects, or causes to be subjected, any inhabitant of any state, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

Due Process Again

In the general excitement over the victory in Europe and some minor excitement over the Supreme Court decision in the miners' wage case, another significant ruling of the court seems to have been overlooked. Certainly, the curious action of the court in the case of Claude Screws holds certain momentous implications for the future of local justice and local government in this country.

This Claude Screws was the Sheriff of Baker County, Georgia. With the help of a policeman named Frank Edward Jones, and a deputy named Jim Bob Kelley, he arrested a young Negro named Robert Hall on the charge of stealing a tire. There is evidently some ground for believing that the arrest may have been illegal and that the sheriff was actuated by personal malice rather than by the sense of duty. In any event, the Negro was handcuffed and taken to the courthouse plaza where the three men beat him to death with fists and a blackjack. The officers were prosecuted not by the Georgia authorities for murder or manslaughter but by the Federal authorities for violation of the Fourteenth Amendment and of the Federal statute which makes it punishable by fine and imprisonment to use "the color of any law" to deprive any citizen of his constitutional rights. Sheriff Screws and his companions were convicted and the conviction upheld by the Circuit Court of Appeals.

In the Supreme Court the justices were divided three ways as to the decision and four opinions occupying a total of 56 pages were filed. None of the opinions represented an actual majority of the court. Mr. Justice Douglas, supported by Chief Justice Stone and Messrs. Reed and Black, voted to remand the case for a new trial, by reason of a technicality, thereby recognizing right of the Federal power to intervene in such a case. Messrs. Roberts, Frankfurter and Jackson held that it was an undue and dangerous encroachment upon State powers and responsibilities. Mr. Justice Murphy thought the conviction should be affirmed. So did Mr. Justice Rutledge, but in order to avert a deadlock voted to remand the case for retrial.

A large part of the argument turned on interpretation of the phrase "color of any law." The court held that what brought Screws and his companions under the jurisdiction of the Federal Court was not the character of their offense but the fact that it occurred when they were acting in their capacity as law-enforcement officers. Mr. Justice Rutledge went farther and said that "the Federal power lacks no strength to reach malfeasance in office when it infringes constitutional rights." Mr. Justice Murphy contended that where the State itself does not prosecute such offenses the Federal authority has not only the power but the obligation to act.

The three dissidents took an entirely different line of reasoning. A crime against State law by a State officer, they held, cannot be construed as having the "color of any law." They declare themselves unable to perceive how a State, as such, can be said to have deprived a citizen of life, liberty or property "when the foundation of the claim is that a minor official has disobeyed the authentic command of his State." Thus the practical question is whether Georgia can evade its responsibility to prosecute its own officers for serious crimes "by allowing them to be tried on less grievous charges in the Federal courts." The deeper question, however, is whether civil liberties have been made more or less secure by the sweeping powers of prosecution the court has now placed in the hands of the Department of Justice.

The dissenting justices point out that any judge who admits a confession which is afterward ruled inadmissible will be liable to prosecution under the majority interpretation of the statute. So will any public service commissioner who issues a regulatory order afterward invalidated under the "due process" clause. These justices reject the assurances of the Department of Justice that it means to proceed in such cases with great caution and discretion; they reject it on the ground that such a policy may endure only as long as makers of the policy remain in office. They go on to point out that such a loose construction of "this shapeless and all-embracing statute" may easily become "a dangerous instrument of political intimidation and coercion in the hands of those so inclined."

20d-1945 U.S. Supreme Court

The Letter But Not The Spirit

In a 6 to 3 decision at Washington last Monday, the United States Supreme Court upheld a death sentence penalty for a Texas Negro, L. C. Atkins, who appealed to that court on the ground of racial discrimination. Atkins had charged that the jury commissioners of Dallas County, Texas had "deliberately, intentionally, and purposely limited the number of Negroes on the jury to one." The high court's majority opinion, delivered by Justice Stanley Reed said: "Fairness in the selection of a jury has never been held to require proportionate representation of races upon a jury. Justice Reed explained that the Court's past anti-discrimination ruling was based on the theory that exclusion of Negroes from jury lists in communities where many Negroes lived indicated discrimination and "not on the theory that racial groups must be recognized."

While we must admit that this decision meets the requirements of the 14th amendment to the Constitution, it is, in effect, a bad precedent to set for anti-Negro communities. It tells them how they may comply with the 14th amendment to the Constitution, which forbids discrimination based on race, creed, and color, and yet pursue their undemocratic course of trying Negroes without giving effect and meaning to the spirit of the law. One of the Commissioners, when questioned about the lone Negro, said: "We had no intention of placing more than one Negro on the panel. When we did that we had finished." Another commissioner said: "We three did not go to see any other Negroes. Yes, sir, there were other Negroes' names mentioned besides the one we selected, but we did not talk to them, and our intentions were to get just one Negro on the grand jury."

DALLAS, TEX.
NEWS
Circ. D. 128,637 - S. 150,592
JUN 6 - 1945

Negro Education

If the Negroes go ahead with their plan to have a member of their race seek enrollment in the University of Texas and then take his case to the Supreme Court, there is no reason to believe that the Supreme Court will rule other than the way it ruled in the case that went up from Missouri, when it handed down a decision that Negroes must be admitted to the white institutions unless the state maintains educational facilities for Negroes that are equal to those for the whites. The Supreme Court set a clear precedent in that ruling which it will not reverse. Going farther back, all the Supreme Court rulings on segregation by law have been upon the basis of equal opportunity and convenience for white and colored populations. Going still farther back, it would be difficult to find basis for any other decision in the Federal Constitution.

The Forty-Ninth Legislature was delinquent in its obligation to both white and colored people of Texas in its failure to make an appropriation for at least the beginning of the improvement of the higher educational system for Negroes in Texas. And it was unwise purely from the standpoint of southern white strategy to maintain segregation in the face of a growing sentiment in the North, where the race problem is negligible, to force elimination of segregation in the South where the problem is very real and very vital. The Legislature made provision for improvement at Prairie View State Normal and Industrial College but without an appropriation. Negroes are justified in suspecting that this is an idle gesture. There is too much in the past records to believe otherwise.

The white people of the South are practically unanimous in wanting to maintain segregation of the races in their public schools and colleges. Undoubtedly a considerable portion of the Negro race feel the same way. And many Negroes who want to break down segregation are probably motivated in large part by the belief that they will never get equal opportunities under any other plan.

The News has received several calls and letters from the hotheaded southern element complaining because The News even gave publicity on its front page to the story of the movement by the Negro group in Dallas. They seemingly do not want to change in any way the present status of Negro education. These entirely sincere and well-meaning people are doing more to break down segregation than any other group. They ought to reread the Federal Constitution and do some calculating based upon the recent trend of federal court decisions and federal legislation.

U.S. Supreme Court Upholds New York's Civil Rights Law

WASHINGTON, D. C. — New York's Civil Rights Law, which prohibits racial discrimination by labor unions was upheld by the U. S. Supreme Court in a test case brought by the Railway Mail Association, an A. F. of L. affiliate.

The union had claimed, first, that it wasn't a labor organization and therefore didn't come under the Act; and second, that if it was subject to the law, then the law itself was unconstitutional because it violated the due process clause of the 14th Amendment.

In an opinion by Justice Stanley, the Supreme Court upheld the decision of New York courts in sustaining the law.

Supreme Court Bans Railway Union Bias

WASHINGTON, D. C.—The United States Supreme Court last Monday upheld a decision of the Supreme Court of New York, holding applicable to the Railway Mail Association, an affiliate of the American Federation of Labor, the New York Civil Rights Law prohibiting race discrimination by a labor organization.

By its constitution, membership in the association is limited to male regular or substitute railway postal clerks of the United States railway mail service, "who is of the Caucasian race, or a native American Indian."

NEGRO REFUSED MEMBERSHIP

One of the branch associations attempted to admit into its membership colored railway postal clerks The parent body denied the applicant membership. Certain officers and members of the branch then raised the question of the validity of the association's membership eligibility rule with the Industrial Commissioner of New York State who is charged with enforcement of the civil rights law.

After the Industrial Commissioner threatened enforcement of the law against it, the association filed suit against him in a State court for a declaratory judgment to determine the validity of the civil rights law and for an injunction restraining its enforcement against it.

The State court found that the association was not a "labor organization" as defined by the civil rights law and entered judgment for the association. On appeal to the Appellate Division, this judgment was reversed. The New York Court of Appeals affirmed the judgment against the association. An appeal to the United States Supreme Court was then taken.

Justice Stanley F. Reed delivered the opinion of the court. He said:

"We have here a prohibition of discrimination in membership or union services on account of race, creed or color. A judicial determination that such legislation violated the Fourteenth Amendment would be a distortion of the policy manifested in that amendment which was adopted to prevent State legislation designed to perpetuate discrimination on the basis of race or color.

"NO CONSTITUTIONAL BASIS"

"We see no constitutional basis for the contention that a State cannot protect workers from exclusion solely on the basis of race, color or creed by an organization, functioning under the protection of the State, which holds itself out to represent the general business needs of employees.

"To deny a fellow-employee membership because of race, color or creed may operate to prevent that employees from having any part in the determination of labor policies to be promoted and adopted in the industry and deprive him of all means of protection from unfair treatment arising out of the fact that the terms imposed by a dominant union apply to all employees, whether union members or not.

"In their very nature, racial and religious minorities are likely to be so small in number in any particular industry as to be unable to form an effective organization for securing settlement of their grievances and consideration of their group aims with respect to conditions of employment. The fact that the employer is the Government has no significance from this point of view."

Roberts' Bow Boon To Negro

(Defender Washington Bureau)

WASHINGTON—Supreme Court Justice Owen J. Roberts whose record of dissenting opinions branded him the most conservative member of the high court has tendered his resignation to President Truman.

In the nine-months' court term which ended last month, Roberts easily won the dissenting championship, registering 51 dissents, many of which involved the rights of Negroes.

Perhaps his most famous dissent came during the 1943 term of the tribunal when he registered the lone opposition vote in a 8-1 decision establishing the right of Negroes to vote in Texas Democratic primaries.

Dissenter Denounced

The opinion of the high court upset a nine-year-old opinion which drew for Justice Roberts a scatching denouncement. He said that continued reversals were developing a tendency "to bring adjudications of this tribunal into the same class as a restricted railroad ticket—good for this day and train only."

He concluded his dissent in that case by saying:

"It is regrettable that in an era marked by doubt and confusion, an era whose greatest need is steadfastness of thought and purpose, this court, which has been looked to as exhibiting consistency in adjudication, and a steadiness which would hold the balance even in the face of temporary ebbs and flows of opinion, should now itself become the breeder of fresh doubt and confusion in the public mind as to the stability of our institutions."

Hs most recent dissent was in the case of the Associated Press in which he opposed "regimentation of all news service." He said "the degree here approved may well be but a first step in the shackling of the press which will subvert the constitutional freedom to print or to withold, to print as and how one's interest dictates."

Successor May Be Better

In spite of his extreme conservatism, Justice Roberts was praised for his honesty in home quarters here.

As regards what his loss will mean to the Negro race, it is generally conceded that whoever replaces Justice Roberts as a member of the Supreme Court can scarcely afford to be any more conservative than he.

Hailing from Pennsylvania, the 70-year-old justice is a Republican.

Two Senate liberals, Homer Ferguson (R. Mich.) and Harold Burton, (R. Ohio) have been mentioned as likely successors in case he is replaced by a Republican member of the Senate.

ROME, N. Y.
SENTINEL
Cir. D. 10,638

JUN 20 1945

Must Admit Negro Clerks

Under this state's Civil Rights Law the Railway Mail Association must admit Negro postal clerks to membership on an equality with whites. Such is the ruling of the Supreme Court of the United States. The majority opinion, sustaining the constitutionality of the act, reads in part: "We can see no constitutional basis for the contention that a state can not protect workers from exclusion solely on the basis of race, color or creed by an organization, functioning under the protection of the state, which holds itself out to represent the general business needs of employees." Again we read:

"In their very nature racial and religious minorities are likely to be so small in number in any particular industry as to be unable to form an effective organization for securing settlement of their grievances and consideration of their group aims with respect to conditions of employment. The fact that the employer is the government has no significance from this point of view."

Meanwhile Congress delays setting up a permanent federal body to secure fair and impartial treatment in industry for persons of all colors and creeds. And out in Seattle, although the Teamsters Union has declared its readiness to welcome to membership American-born Japanese who have proved their loyalty by service in the armed forces of the United States, it is declared to be "unalterably opposed to the effort that now is being made to rush the Japanese back into the strategic places they once had on the Pacific Coast."

Lamentably the union is able to cite the example of the federal government as having "placed a large question mark" after the names of all Japanese who have not been members of the armed services.

Union Loses Fight To Keep Race Bar

Memphis, Tenn.
Memphis World

WASHINGTON, D. C.—(SNS)—On June 19th the Railway Mail Association lost its fight in the U. S. Supreme Court to bar Negroes from membership in the Association. The Supreme Court ruling upheld the validity of the New York Civil Rights law and a previous ruling in July 1944 of the New York Supreme Court that the Association was a labor union and had violated the State Civil Rights laws in limiting membership to white government postal clerks.

The NAACP filed briefs amicus curiae with both the State Court and the U. S. Supreme Court, in which it pointed out that the State had ample power to pass such statutes regulating union practices as the result of its police power over places and activities affected with the public interest.

The U. S. Supreme Court opinion written by Justice Reed stated "In their very nature racial and religious minorities are likely to be so small in number in any particular industry as to be unable to form an effective organization for securing settlement of their grievances and consideration of their group aims with respect to conditions of employment...."

The Court further stated: "We see no constitutional basis for the contention that a State cannot protect workers from exclusion solely on the basis of race, color or creed by an organization functioning under the protection of the State which holds itself out to represent the general business needs of employees."

6-26-45

The Railway Mail Association, a New Hampshire corporation limits membership, by constitutional provision to "any regular male railway postal clerk or male substitute postal clerk of the Unted States Railway Mail Service who is of the Caucasian race or a native American Indian." The decision of June 18th makes unenforceable in the States of New York any such provision in the constitution and by-laws of this or any other organization.

6-26-45

NAPE EYES ELECTION AS SUPREME COURT BANS WHITES' JIM CROW

Black Dispatch

WASHINGTON.—(ANP)—Just 32 years after the Railway Mail association began barring Negroes from membership, the supreme court knocked the props from under the practice and last week ordered the group to admit Negroes.

The association prior to 1913 had admitted Negro railway mail clerks as members and many hold membership cards and pay dues to the organization today. But the refusal to accept them on a large scale began around 1912 when Negroes then undertook to form their own organization, the National Alliance of Postal Employees.

Under the supreme court ruling, the Railway Mail association is classed as a labor organization and the ruling will have a salutary effect upon all other labor organizations which bar Negroes.

The action of the association in 1912-13 led to the formation of the NAPE. Right now, the organization is holding its usual election proceedure to name a president and other officers. The present head, Lafayette Ford of St. Louis, it is said, has indicated his intention of withdrawing from office this year and will not run.

Several candidates have sprung up, representing various sections of the country. Alphabetically they are listed as Elmer E. Armstrong of New York City of District 8; Ashby B. Carter, District 7; Golden E. Renfro, Cincinnati, District 6, and Raymond A. C. Young, a vice president of the organization, residing in Baltimore.

A bitter fight is expected with balloting being heavy. Ballots are mailed out to members and returned sealed and opened only upon authorization for counting. While there are feud candidates in the fight, the race, it is said by insiders, settles down to the two candidates, Armstead of New York and Carter of Chicago, with the odds favoring Carter's winning in a close race. Both are considered able. Carter is well known and prominent in civic and fraternal circles in Chicago.

For the second office, John C. Lymas of Philadelphia, has a fellow townsman as an opponent, Harold L. Pilgrim, as well as Erma R. Bryson of St. Louis and Royal W. Bailey of Washington, D. C.

7-14-45

The post of secretary is being battled for by the incumbent, Thomas P. Bomar of Washington, Vetie D. Dixon, also of Washington, and Lillian V. Wood, an employee of the New York City post office department.

Editorship of the organization paper is being sought by Castine A. Davis of Chicago, who is opposing the incumbent, Snow F. Grigsby of Detroit.

The all important treasuryship is sought by Arthur Chapital of New Orleans against the incumbent, Phillip A. Holland of Birmingham.

Okla City, Okla

Other changes in important posts are expected if a new group of officers is elected and the indications are there will be some definite changes.

The National Alliance of Postal Employees was the first organization to maintain a full time representative in Washington looking after its affairs. The group itself is more than interested in the supreme court ruling of last week which held that the Railway Mail association could not deny membership to anyone on account of race, creed or color.

Justice Reed delivered the opinion of the court, which had come through the courts of New York to the highest court in the land. Justice Rutledge concurred in the judgment and Justice Frankfurter also concurred expressing an opinion which castigated the association.

7-14-45

PHILADELPHIA, PA.
BULLETIN
Circ. D. 639,110

AUG 3 - 1945

Florida's Decision

FOLLOWING the decision of the United States Supreme Court asserting the right of Negroes to participate in primaries the State Supreme Court of Florida has upheld the claim of Negroes to be enrolled as Democrats in that State. The Florida Court brushed aside technicalities in its decision and asserted that the primary is an integral part of an election and constitutional prohibition of discrimination because of race or color applies.

Attempts are being made by some die-hard opponents of Negro voting in the South to make primary rules exclusively a matter for the party's decision. By having the Legislature repeal all State rules governing primaries this group seeks to make it appear that the primaries are not subject to governmental regulation.

This subterfuge was not attempted in the case of Florida and it is doubtful if it will be a success in holding back the undoubted right, asserted by the Supreme Court, of the Negro to participate in the political life of the State and nation.

There have been numerous signs throughout the South of greater regard for the rights of Negroes. Georgia's repeal of the poll tax has been followed in other States by agitation for similar action. Progressive Southerners are not out of step with the rest of the nation.

20d-1945

Our Second Real Emancipation

Atlanta Daily World, Ga.

When the U. S. Supreme Court on April 3, 1944 declared unconstitutional the Texas White Democratic primary elections we described this decision as "epoch-making and our second emancipation." Our understanding of the Texas decision was that it covered all primaries in all states that excluded Negroes because of race. But as is generally known now, the recalcitrant politicians in Atlanta and Georgia refused to recognize this decision.

Now, Federal Judge Davis of the Middle Georgia District has declared unconstitutional and illegal the Georgia White Primaries. So since we have a decision on Georgia we can accurately say now the Negroes in Georgia have received their second real emancipation. At this time we shall not go into details as to the meaning of this great decision other than say it gives us political equality and will prove the real beginning of democracy in Georgia.

In making his decision in the case of Rev. Primus E. King of Columbus, Judge Davis cited the Fourteenth, Fifteenth and Seventeenth Admendments to the Federal Constitution, adding in part: "That whenever a political party holds a primary in the state, it is by law an integral part of the election machinery. Once a decision to hold a primary is made, the statutes of Georgia take hold and direct every essential step from registration and qualification of voters to the placing of the names of the nominees on the general election ballot."

10-14-45

Just exactly what this decision will mean to Negroes here in the state will largely be determined by the number of them who have the foresight to get registered. And happily, we believe at least 100,000 of the million 200 thousand have at least this amount of intelligence. Already Negroes in Savannah are registering in steady and large numbers. Atlanta is soon to start a vigorous registration drive.

Dr. T. H. Brewer, physician of Columbus, who led the court fight for the Columbus case and other citizens are to be commended for this great victory. And Negroes should feel indebted to Attorney Harry Strozier, a white man of Macon, for the brilliant and able way in which he and his associates conducted Rev. King's case.

Also the constant and vigorous fight that Atlanta Negroes have waged for the right to vote should not be forgotten. The leaders here simply have pursued a different course. They have sought to get the Federal Government to declare itself on the enforcement of the Admendments to U. S. Constitution which forbids discrimination in voting because of race. The decision in the Columbus case should make it less difficult now for Attorney General Clark to take action against the politicians for deliberately and willfully denying us ballots on September 5th.

10-14-45

The recent state legislature omitted from the new Constitution all references to the primary and it is not inconceivable that attempts will be made by the next legislature to repeal all the present statutes affecting the primary. Failure on the part of the Federal Government to take prosecutive action on our Constitutional right to vote we fear will invite further attempts

U.S. Supreme Court

at invasion of all these primary decisions and ultimately cause corruption and chaos in the elections, both primary and general.

Let us hope this vote question will be cleared up as quickly as possible. It is vital.

U. S. Supreme Court Denies Akins' Plea For Second Ruling

Atlanta Daily World
Atlanta Ga.
10-20-45

WASHINGTON—(N N P A)—The United States Supreme Court Monday denied L. C. Akin, Dallas Negro a rehearing on its June 4 ruling upholding his convictioin of murder in connection with a white Dallas Poilceman on September 15, 1941. Previously, the United States Supreme Court had granted certiorari in this case "because of the importance in the administration of criminal justice of the alleged racial discrimination which was relied upon the support the claim of the violation of constitutional rights." Justice Reed and the majority upheld the decision of the Texas Criminal Courts, but the Chief Justice and Justices Murphy and Black dissented, Murphy filing a written opinion.

The ILD, along with other groups working to secure a release of Akins announced last week that the Governor of Texas had commuted Akins' death sentence to life imprisonment. Further efforts are being made to get him released from the extreme sentence.

Akins, the report shows, got into a fight with a Dallas policeman, who had shot and struck him with his pistol and in the struggle, he dropped it to the ground and it was snatched up by Akins at which time he fired the fatal shot that killed the white man. Akins was put in jail, denied bail, tried and given a death sentence which had been affirmed. A stay of execution was granted on two occasions and with the governor last week commuting him a life sentence. In Texas the law justifies killing in defense of one's life. And the record shows that Akins shot the policeman with his own gun after he had been shot and beaten by the white officer.

10-20-45

High Court Awards Fireman Damages Against Dixie R. R.

Chicago Defender, Ill.
10-27-45

EDITOR'S NOTE: Ben Meyers, Chicago lawyer and an authority on labor-industrial relations, reviewed last week the Supreme Court ruling by Justice Frank Murphy in the case of Steele versus the Louisville and Nashville Railroad Co. Justice Murphy denounced the railroad brotherhood, the Brotherhood of Locomotive Firemen and Engineers, for its attempt to oust Negro firemen and replace them with whites. This article concludes the discussion of the case).

10-27-45

By BEN MEYERS

Despite their clever arguments and neat schemes, the United States Supreme Court held that the Louisville and Nashville Railroad Co. could not discriminate against Negro firemen by firing them from their jobs in favor of white men.

The court ruled that Steele, the plaintiff, a Negro fireman, as a result of the discrimination practiced against him, was entitled to money damages for the losses he sustained in wages. Furthermore, an injunction was ordered against the guilty parties to stop them from ever trying the same thing again; and if they did, the union and the railroad company or their officials would be held in contempt of court and could be fined or jailed or both.

For this reason, it can be reasonably assumed that these shenanigans won't be tried again, at least not so obviously.

What happened was that the Brotherhood of Locomotive Firemen and Engineers (the union) and the Louisville and Nashville Railroad Co. tried to get rid of all the Negro firemen in order to make room for white men. This was done by so-called collective bargaining between representatives of the union and the company which resulted in several written agreements to make the conspiracy effective.

Old-Line Labor Unions

It must be underlined, here, that this is not a typical practice of the vast majority of labor unions in this country. Occasionally, it will happen, especially in one of the old-line labor organizations.

Some of the men who lead these groups have learned very little in the many years of the labor movement. Furthermore, they resist every step in the direction of progress. For them to allow a new and liberal idea to enter their heads would be equivalent to letting clean, cool, fresh air into a stuffy old room.

10-27-45

Thus it is that a few unions throughout the nation still do not permit Negroes to hold membership in their organizations.

But the problem really becomes a serious one, as in the Steele case, when the union, which does not allow Negroes to become members, seeks to become the exclusive collective bargaining representative for a whole class of workers composed of Negroes as well as whites.

Under the law, a union can get an election among employes to determine whether they wish to have the union represent them for purposes of bargaining with an employer.

In the election, which the government agency supervises, all employes in the class or unit employed by the company are eligible to vote, whether or not they are members of the union seeking the election. If the union wins the election, it is certified as the exclusive bargaining representative of all the employes in the class or unit involved.

Negroes Voted for Union

900.

In the Steele case, the union had won such an election held by the Railway Labor Board. Both Negroes and whites had voted. Then the union proceeded to deal with the company in favor only of its members, who were white, and against the Negro firemen.

In court, the union and the railroad company argued that there was no obligation to represent the interests of the Negro firemen and that there was no limitaitno on the union's authority or power to contract for the members of the class or unit, even if the agreement provided for discriminatory deals.

The Supreme Court said, No!

The court said that the labor organization chosen to be the representative of the craft is chosen to represent all of its members, regardless of their union affiliation or want of them. So long as a labor union assumes to act as the legal representative of a craft, it cannot rightly refuse to perform the duty, which is inseparable from the power of representation conferred upon it, to represent the entire membership of the craft, fairly, impartially, and in good faith.

Legal Rulings

While the law does not limit the right of a bargaining union to determine eligibility to its membership, it is required, in collective bargaining and in making contracts with companies, to represent all the members of the craft and non-union or minority union members with the employer and to give to them notice of and opportunity for hearing concerning its proposed actions.

Furthermore, the union is required to consider requests of non-discrimination, fairly, impartially, and in good faith.

20d-1945 U.S. Supreme Court

HIGH COURT EDICT PROTECTS VET'S RIGHTS

HASTIE Chicago Defender 7-7-45
By Venice T. Spraggs
(Defender Washington Bureau) Chi., Ill.

WASHINGTON.-- Public officials who deliberately deny returning Negro veterans rights established by law will find themselves open for prosecution, Judge William H. Hastie, dean of the Howard University law school, told the Defender in an exclusive interview here this week.

Under the recent supreme court rule in the Screws case," any public official doing a public job who deliberately denies a person the rights which the federal government gives is liable for prosecution under the decision," Judge Hastie said.

I asked Judge Hastie how difficult it would be to prove "wilful" denial to which he replied:

"There are enough cases in which you can show wilfulness of the conduct to make the statue very useful in keeping public officials from practicing, at least, the most gross types of discrimination."

He said the law which was established in 1869 and placed on the statue books in May 1870, was first tested in Harlan, Ky., when a group of miners were prohibited from organizing, in direct violation of the provisions of the Wagner Act. Officials of the companies involved were prosecuted under the wilful denial provision of the Civil Rights Act.

The act does not provide for the prosecution of civilians who beat up or kill Negroes in the uniform of the United States Judge Hastie said. However, there is pending in the House Judiciary Committee a bill which would give the Federal government jurisdiction over such cases should Chairman Hatton Summers (D., Texas) be persuaded to give it the right of way to the House floor where it is generally agreed that it would pass.

Passed By Senate

A close friend of newly appointed United States Attorney General Tom C. Clark, also of Texas, believe that the new Attorney General might be able to get Rep. Summers to make this move.

The bill passed the senate by unanimous consent, without even a roll call being taken.

The Screws decision may be enforced in many cases where citizens are denied the right to participate in democratic primary elections, Hastie explained.

Under the recent supreme court rule in the Screws case," any public official doing a public job who deliberately denies a person the rights which the federal government gives is liable for prosecution under the decision," Judge Hastie said.

If a Negro GI seeking to avail himself of his rights as set forth under the GI Bill should appear before a Veteran's Administration representative or a holding official as the case may be and is willfully denied consideration because of his race or other discriminating factors then that official could be prosecuted under the Screws decision, Hastie said.

Upholds Civil Rights

There has been wide-spread concern expressed in many quarters as to the treatment which will be accorded returning Negro Veterans in certain sections of the country, particularly the South, when they seek the benefits to which they are rightfully entitled. Experience in the past has shown that they have suffered considerable abuse indeed bodily harm in personally insisting on these rights, The Screws decision provides definitely for legal recourse to back such insistence.

The Supreme Court's ruling in Texas case of Smith versus Allright established that right.

" In all states where the Texas decision had been conceded to apply, public officials who deny Negroes the right to vote may be sued under the 'wilful intent' clause of the Screws decision Hastie pointed out.

Further he explained that "in any state where there is an honest doubt as to the application of the Texas decision it may be necessary to establish that applicability, This would have to be done in a local civil suit, he said.

TEST CASE IN GEORGIA

Such a case is at present being prosecuted in Atlanta, Ga., by the National Association for the Advancement of Colored People whose legal division Judge Hastie heads.

Once a suit is won in any state, whether under the Screws decision or through a civil court proceedings, it serves notice that the right of Negroes to vote in primaries in that state has been established," Hastie said.

He paid a high compliment to the Department of Justice for the "vigorous and largely successful campaign" waged to wipe out peonage in this country.

An eminet lawyer, Judge hastie, former United States district attorney in the Virgin Islands has frequently been mentioned in quarters here as highly qualified for a chair on the United States Supreme Court. He is a graduate of Harvard School of law and a member of the firm of Houston, Houston, and Hastie.

U. S. Supreme Court Denies Akins' Plea For Second Ruling

Atlanta, Ga. Daily World

WASHINGTON—(N N P A)—The United States Supreme Court Monday denied L. C. Akin, Dallas Negro a rehearing on its June 4 ruling upholding his convictioin of murder in connection with a white Dallas Poilceman on September 15, 1941. Previously, the United States Supreme Court had granted certiorari in this case "because of the importance in the administration of criminal justice of the alleged racial discrimination which was relied upon the support the claim of the violation of constitutional rights." Justice Reed and the majority upheld the decision of the Texas Criminal Courts, but the Chief Justice and Justices Murphy and Black dissented, Murphy filing a written opinion.

10-16-45

The ILD, along with other groups working to secure a release of Akins announced last week that the Governor of Texas had commuted Akins' death sentence to life imprisonment. Further efforts are being made to get him released from the extreme sentence.

Akins, the report shows, got into a fight with a Dallas policeman, who had shot and struck him with his pistol and in the struggle, he dropped it to the ground and it was snatched up by Akins at which time he fired the fatal shot that killed the white man. Akins was put in jail, denied bail, tried and given a death sentence which had been affirmed. A stay of execution was granted on two occasions and with the governor last week commuting him a life sentence. In Texas the law justifies killing in defense of one's life. And the record shows that Akins shot the policeman with his own gun after he had been shot and beaten by the white officer.

Unions told to represent all

Los Angeles Tribune Cal.
1-1-45

WASHINGTON — Expected to be of great value in other cases against labor unions having discriminatory policies against Negroes, the Supreme Court unanimously upheld last week the contention that a union acting under the labor act is duty bound to represent minority group members impartially.

The court considering the suit of two Negro firemen against the Brotherhood of Locomotive Firemen ruled that the law "imposes on a labor organization acting as the exclusive bargaining representative of a craft or class of railway employes in the craft with out discrimination because of their race."

The finding was made in two unanimous opinions, both written by Chief Justice Stone.

Justice Murphy in separate concurring opinion in both cases said that "nothing can destroy the fact that the accident of birth has been used as the basis to abuse individual rights by an organization (Brotherhood of Locomotive Firemen and Enginemen) purporting to act in conformity with its congressional mandate . . . Racism if far too virulent today to permit the slightest refusal, in the light of a constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation."

Stone's majority opinion said the court's finding does not mean "that the statutory representative of a craft is barred from making contracts which may have unfavorable effects on some of the members of the craft represented." Stone added:

"Variations in the terms of the contract based on differences relavant to the authorized purposes of the contract in conditions to which they are to be applied, such as differences in seniority, the type of work performed, the competence and skill with which it is performed, are within the scope of the bargaining representation of a craft, all of whose members are not identical in their interest or merit."

1-1-45

In one opinion the court ruled in favor of Bester William Steele, a fireman on the Louisville and Nashville Railroad since 1910. He protested that he and other Negro firemen were discriminated against by an agreement between the Brotherhood of Locomotive Firemen and Enginemen and 21 Southeastern railroads.

In the second opinion the court held that a Negro locomotive fireman who complained he was forced from his job and replaced by a white man is entitled to protection under the act. The fireman in this case, Tom Tunstall, protested like Steele against the agreement between Southeastern railroads and the brotherhood.

The Divided Supreme Court, Cont'd

New Republic

SIR: Mr. John P. Frank's article on "The Divided Supreme Court" in the June 18 issue of the *New Republic* calls attention to a phenomenon which has puzzled many thoughtful persons. Seven members of the present Court were appointed to it by President Roosevelt, and it was generally assumed when they were nominated that their basic economic and social views were in harmony with his liberal philosophy. It is Mr. Frank's thesis that "new times have brought new issues which have created meaningful division among the Justices," and that these "differences are founded on deep-rooted convictions." His article leaves the impression, however, that the "deep-rooted" principles which divide the Court are really quite simple: some Justices have remained steadfast in their loyalty to the liberal objectives of the New Deal while other members of the Court, particularly Justices Frankfurter and Jackson, seem to have left their liberalism behind them. The serious divisions in the Court, however, cannot be explained so easily. One must examine the matter more closely; and it is for this reason that I offer a postscript to Mr. Frank's article.

7-30-46

Without attempting to pass judgment upon particular instances of disagreement among the Justices, I would like to suggest an approach which may be helpful in reaching an intelligent understanding of the cleavages in the Court. A clue to the mystery of why the liberal Justices disagree with one another so frequently and so sharply is to be found, not in any difference in their social or economic views, but rather in their divergent conceptions of the role which judges should play in a democratic society. The point can be illustrated by reference to what has increasingly become the most important business of federal judges, namely, the task of interpreting and applying laws enacted by Congress.

Almost all of our affairs are governed or affected to some extent by federal legislation. In the exercise of its constitutional powers Congress has enacted literally thousands of statutes dealing with taxation, labor relations, monopolies, patents, transportation, immigration, bankruptcy, wage and price control, etc.—to mention only the most obvious categories. A dispute may arise as to what a particular law means, and the controversy eventually finds its way to the Supreme Court. How is the case to be decided? The answer is clear. In the language of the lawyer, the only function of the Court is to ascertain and give effect to the "intent" of Congress. To this end the Court will consider all available data which shed light upon the matter, primarily the language of the statute and the committee reports and debates relating to the legislation. The judge who construes a statute must make what is in essence a vicarious judgment: he must determine from all the available evidence what Congress would have done if it had foreseen the particular dispute now before the Court. To be sure, the data furnished by Congress very frequently are meager, and the case necessarily must be decided on the basis of some general considerations of policy. But even in such a case the factors which are ultimately decisive should be derived from a judgment of policy made by Congress, and not by the members of the Court on the basis of their own notions of what is socially or economically desirable.

N. Y.

Under our constitutional system, determination of national social and economic policy is the concern of Congress and the President, not the Supreme Court. Justices of the Supreme Court have neither the authority nor the competence to make such policy. The Court possesses no machinery for making the studies which are so necessary in reaching informed conclusions on complex social and economic questions. It has no investigating bodies; nor can it hold hearings in order to ascertain the views of the public. It cannot formulate comprehensive policies dealing with all aspects of a problem. On the contrary, the processes of litigation are episodic and have little logical or coherent direction. The Court can only decide cases as they happen to come before it. Its members are appointed for life, and can be removed involuntarily only by death or impeachment. They do not come before the people periodically for approval or disapproval of their work. It would therefore be intolerable for the Court to set itself up as a super-legislature, even though it be composed of men who by present-day standards are regarded as liberals. Experience should teach us that we can have little assurance that the "trust-busting" Justices of today will not become the reactionaries of tomorrow.

For all these reasons it is clear that, in performing his judicial functions, a judge must subordinate his personal or partisan views so far as is humanly possible. In his judicial capacity he should be neither Republican nor Democrat, neither pro-capital nor pro-labor, neither Northerner nor Southerner, neither Protestant, Catholic nor Jew.

This analysis of the nature of the judicial process may seem to the reader to be an elaboration of the obvious. But we know that the intensity with which general principles are held will often determine particular issues. In the readiness with which a judge concludes that the absence of legislative guidance leaves him free to decide on the basis of his own conceptions of policy, we have a fairly reliable index of his lack of respect for the self-limitation which should govern the judiciary in a democratic society. Even the most conscientious judge occasionally finds himself unable to discern the legislative will. But it is another matter when a judge is consistently quick to find that policies embodied in legislation coincide with his own views of what is economically and socially desirable. One may therefore venture the suggestion that divisions may have arisen in the Supreme Court because some of its members adhere more closely than do others to the principle that judges should carefully avoid interpolating their personal notions of policy into law. This adherence is not to be measured by what the Justices say, for almost always both majority and minority opinions will passionately avow their faithfulness to indication of congressional intent. Hence there is no substitute for careful, laborious analysis of particular decisions before one can make confident generalization about the basic philosophical differences among the Supreme Court justices.

Washington, D. C. Philip Elman

20d-1945

U.S. Supreme Court

Supreme Court In New Ruling

People's Voice 5-12-45

WASHINGTON—In a ruling handed down by the Supreme Court Monday new angles on the matter of civil liberties have been opened. The ruling was written as the majority opinion by Justice Douglass. N.Y. N.Y.

The case was that of three white Georgia law officers, accused of beating to death a handcuffed Negro prisoner, Robert Hall. The three had been convicted under Federal laws. The new ruling ordered new trials for the three, while not sympathizing with them for the deed committed. 5-12-45

The Supreme Court acted on purely legalistic bases, holding that the original trials of the men had not proceeded under proper auspices. Justice Douglass called the crime of the men a "shocking and revolting episode."

Supreme Court Rules In Favor Of R. J. Thomas

Informer-Houston Texas p20-45

By E. W. STEWART

Labor leaders who have been becoming increasingly concerned over state legislation against labor unions, were greatly relieved and encouraged by the Supreme Court's decision that Texas legislation requiring paid labor union organizations to register with the secretary of state before soliciting members was unconstitutional. 1-20-45

The state regulation was challenged by R. J. Thomas, Detroit, a CIO vice-president and president of the United Automobile workers, who was formerly held in contempt of court for violating a Texas court's order which prohibited him from soliciting for union members without registering with the secretary of state and obtaining an organizer's card. The Supreme Court's majority stated that the state has a power to regulate labor unions in order to protect the public interest, but that such regulation, whether aimed at fraud or other abuses, must not trespass upon one's right to free speech and free assembly. The state's regulation, it was held, was a restriction upon Thomas' right to speak and the rights of workers to hear what he had to say. 1-20-45

The Court voted five-to-four to uphold Thomas in his case. Justice Rutledge delivered the Court's opinion. Justices Stone, Reed, Frankfurter and Roberts composed the minority who dissented.

Kills Part of Manford Act

The Court's decision killed part of the Manford act which was passed by the forty-eight session of the Texas legislature. The bill has frequently been referred to as The Labor Regulatory Bill, H. B. 100, and was quite an issue in the Texas Democratic primary election when labor leaders vigorously opposed those candidates who had voted for the passage of the act.

President Of Colored Trainmen Hails Victory In Firemen's Case

Norfolk-Journal-Guide 1-6-45

Statement of S. H. Clark, grand president, Association of Colored Railway Trainmen and Locomotive Firemen, Inc.

1-6-45

ROANOKE, Va.—The recent decision handed down in the United States Supreme Court in the Tunstall and Steele cases is far reaching. This decision given in favor of two colored railway firemen will compel all labor organizations to either accept Negroes as members of their organizations and bargain for them or bargain for them without their being members. These men had lost their seniority by agreements reached thru the Mediation Board by the Brotherhood of Locomotive Firemen and Enginemen and the railroads in February 1941, known as the Southeastern Carriers Agreement. This agreement was signed by 21 railroads in the southeastern part of the United States. It restricted the quota of colored firemen to a 50-50 basis. Most roads affected had far more than 50 per cent Negro firemen, therefore, many of these lost their seniority. 1-6-45

MEMBER OF ASSOCIATION

Thomas Tunstall is a member of the Association of Colored Railway Trainmen and Locomotive Firemen and this organization has handled this case thru the lower federal courts of Virginia and through the Supreme Court of the United States. Attorney Charles H. Houston of Washington is chief counsel for this organization. S. H. Clark, 909 Gilmer avenue N. W., is president with headquarters at 408 Gainsboro avenue N. W.

The big railroad unions have run rough shod over the colored railway workers for many years, either limiting their employment or entirely eliminating them from the service as firemen and brakemen in the transportation department. This is the first time a colored organization has attacked any of their agreements. 1-6-45

The colored railway man has been content to allow these unions to destroy his seniority or force him entirely out of employment with no thought of trying to protect his interest. It is either from fear of losing his job or of offending his white engineer or conductor. The association has made a gigantic fight to protect the interest of colored trainmen and firemen, also to keep the doors open for their continued employment as brakemen and firemen by the various railroads. We feel the winning of these cases will stir the interest of colored workers to join labor organizations as a means of protecting their seniority rights.

HEADS TRAINMEN'S ASSOCIATION—S. H. Clark of Roanoke, Va., is grand president of the Association of Colored Trainmen and Locomotive Firemen, Inc., with headquarters in Roanoke, the organization which handled and pushed the Tom Tunstall case to victory through the federal courts.

The Real Meaning of The Rail Ruling

Northwest Enterprise Seattle, Wash. 1-3-45

Within the limits of "legal niceties," as termed by Justice Frank Murphy, the United States Supreme Court has cracked a tradition which has stood since emancipation in its decision of last week cracking down on the lilywhite railroad brotherhoods.

In its broadest interpretations this ruling in effect upsets the long legal precedents which held that the 13th, 14th and 15th amendments did not cosnote any law violation in the Jim Crow "separate but equal" practices of the South. 1-3-45

The Supreme Court, it seems, has discovered that whatever is segregated and Jim Crowed cannot be equal in the true sense.

Its decision in the railroad brotherhood case, while not specifically stating as much, certainly has the implication that segregation per se means discrimination—and strange as it sometimes sounds, discrimination is against American law, as laid laid down in the 14th amendment which guaranretees to all "the equal protection fo the laws."

The high court held that a union must bargain on behalf of its Negro non-members, excluded because of their color, because not to represent them would deprive them of their rights and their livelihood.

Since unions, or any other organization or association covering a trade, profession or occupation, must represent Negroes hitherto excluded, the logic of the Supreme Court decision would be that these persons must be included into membership to be so represented. 1-3-45

The implications of such a stand by the Supreme Court are far-reaching into all phases of American life and especially at the present time hits those Jim Crow unions in the American labor movement who preach but do not practice demoracy.

What is perhaps as remarkable as the actual Supreme Court decision was the brilliant concurring opinion written by Justice Murphy whose sharp denunciation of American racism will stand as a classic legal doscument for many years.

In it he does not accept the isolation of the railroad brotherhood case from the true significance it has in world affairs. He sees in the racial practices of the union the virulent threat of fascism and declares it the obligation of the court to "expose and condemn it." 1-3-45

When Justice Murphy declared careful study to guarantee the that "a sound democracy cannot fullest sequel to its judicial conallow such discrimination to go notations. It opens the way for unchallenged," he raised the en- striking new powerful blows tire question of the place of ra- against Jim Crow in American cial prejudice in the fabric of life.—Chicago Defender.

American democracy not as an imposition on NeNgroes but a genuine threat to white Americans too.

The historic stand of the highest tribunal of the land deserves

The Supreme Court at Its Best

IF you are a Christian, you have heard about "the brotherhood of man under the fatherhood of God." It is the very essence of Christianity. But this article is about a different kind of brotherhood (and brother, I do mean different), namely, the Brotherhood of Locomotive Firemen and Enginemen.

This "brotherhood" entered into a collective bargaining agreement with 21 railroads which was intended to sweep Negro firemen off all Southern roads. But it underestimated not only the fighting spirit of one Negro who filed suit to collect $25,000 damages plus his job back, but also the humanity of the Supreme Court.

The Fourth Circuit Court, appropriately named because, like the fourth steed in a horse race, it is just an also ran, dismissed the Negro's suit, ruling that federal courts had no jurisdiction. But the Supreme Court, justifying its right to the name, overruled that decision and remanded the case to the lower courts. The Supreme Court decision was based on the fact that even though Negro firemen are excluded from the union, the brotherhood represents an entire "craft," of which the Negroes constitute a minority.

Chief Justice Stone said that if the minority group had no representation by the union, the minority would be left without means to protect their interests or even their right to earn a livelihood in the occupation in which they are employed. This was logical reasoning by Justice Stone, and it gave me a feeling of relief to know that America's persecuted minorities could seek and find justice in the Supreme Court.

But it was Associate Justice Murphy who really warmed the cockles of my heart. Justice Murphy, who thinks of and feels for the minority, perhaps because he's Irish and knows that his ancestors suffered persecution from Englishmen who invaded Ireland with swords in their hands and larceny in their hearts, minced no words in putting the blame where it belonged. He attacked the discrimination practiced against Negroes by the brotherhood and the railroad under color of congressional authority. He condemned the utter disregard for the dignity and well-being of Negroes shown by this record of the lower court. Justice Murphy stated that a sound democracy cannot allow such discrimination to go unchallenged and he also warned that racism is far too virulent today.

Henceforth the so-called Brotherhood of Locomotive Firemen and Enginemen must bargain collectively with Southeastern railroads in behalf of non-member Negroes. Perhaps in the future this bigoted outfit will merit the word brotherhood in its official title. On past performances it has been unworthy of bearing the name brotherhood except in the hypocritical use of the word. This organization is best described as "the Brotherhood of White Locomotive Firemen and Enginemen under the Fatherhood of Satan."—By Emmett Phillips for ANP.

High Court Rail Union Ruling Gives Negro Workers New 'Bill Of Rights'

By VENICE T. SPRAGGS
(Defender Washington Bureau)

WASHINGTON.—The Supreme Court decision in the Tunstall-Steele cases against the Brotherhood of Locomotive Firemen and Enginemen applies not only to railroad unions, but "affects every union that exercises bargaining rights under statutory authority." Charles H. Houston, attorney for the two men, declared this week.

The attorney added, "The decision is the beginning of a move which will bring about the democratization of the railroads, and will remove percentage restrictions and certain other negative barriers to Negro employment."

Attorney Houston pointed out not only does the ruling require the union in collective bargaining agreements, and in making contracts with the carriers, to represent non-union and union members without discrimination, fairly, impartially and in good faith, but further requires the union to give non-union members the right to appear and express their views when discussions pertaining to collective bargaining agreements are being held.

Unions Dislike Opinion

This is a far cry from privileges previously accorded Negroes whereby they were consulted in cases of strikes only, but were never permitted to air their views on policy or on strike-breaking for that matter.

This section of the opinion is considered to remove part of the premium on union membership by giving non-union members some perogative. It may remove a good deal of the resistance to Negro membership in certain unions.

The decision, it is understood, is looked on disfavorably by both AFL and CIO unions.

The case was never pitched on the matter of forcing unions to accept Negro memberships, Attorney Houston said, but rather on the rights of the individual worker to be represented under contract agreements. It was not the intention of the argument to drive a wedge into unit bargaining as established by the Railway Labor Act. But, he said, although the union owes duty to no one before elections, afterwards it has the right to represent all members of the craft fairly.

Outlines Next Steps

This contention was substantiated in the opinion when the court ruled, "Once a craft or class has designated its representative, such representative is responsible under the law to act for all employes within the craft or class, those who are not members of the represented organization, as well as those who are members."

Charting the future course which will be followed, Attorney Houston said the Tunstall-Steele cases will be remanded to lower courts but he expressed no alarm as to the possible outcome there, pointing out that it was simply a matter of legal procedure. Following that, immediate steps will be taken to set aside the Southeastern Carrier Agreement which limits the employment of Negroes on the railroads and designates the areas in which they shall work. This, he said, would be done by entering suit against each of the 21 southern railroads and the brotherhoods, parties to the agreement.

As a third step, suit will be filed against the Gulf, Mobile and Ohio railroad to revive the Ed Teague case in which the question of giving white firemen precedence on trains equipped with mechanical stokers must be decided.

Decision Strengthens FEPC

In Attorney Houston's opinion, the decision will give the President's Committee on Fair Employment Practices a legal basis it has never had. He referred to the work of the Stacy committee, headed by Judge Walter P. Stacy of the North Carolina Supreme Court, which was established by President Roosevelt, when 14 southern railroads refused to follow the directives of the FEPC and set aside the Southeastern Carrier Agreement.

After months of snail-like procedure, during which time the Alabama Supreme court ruled in the Steele case, "no Federal question," the Stacy committee, apparently relieved, went into a shell. The recent ruling throws the question of the carriers and unions living up to the FEPC directive right back into their laps.

It is believed that the precedence established in the Tunstall-Steele cases will have important bearing on pending litigations involving the employment rights of Negroes under collective bargaining agreements involving such offenders as the AFL International Association of Machinists, AFL International Brotherhood of Boilermakers, Iron Ship Builders, Welders and Helpers of America, whose jurisdiction covers numerous West Coast shipbuilding and aircraft companies.

Moreover, it is believed, that it will have far-reaching affect on the future of union "auxiliaries" and "work permits."

Attorney Houston admitted that the fight has just begun, and that the decision only establishes the fundamental legal basis on which to continue.

Many Suits Possible

One legal authority questioned felt that the ruling gave to every Negro who has sustained loss of pay, either under union auxiliary membership, "workers' permits," or other discriminatory contrivances against Negro employment, the right to bring suit against the offending unions and companies.

He pointed also to the families of those Mississippi Valley Negro firemen who lost their lives in fracases growing out of disputes involving their rights as railroad workers, to do likewise. He cautioned that care be taken to see that the cases come within the framework of the decision and that every effort be made to build up strong cases before they are initiated. He estimate that thousands of dollars in redress would be involved, to say nothing of restoration of employment.

Attorney Houston is general counsel for the two independent Negro unions, the Association of Colored Railway Trainmen and Locomotive Firemen, Roanoke, Va., and the International Association of Railroad Employes, Memphis, Tenn. The two unions have a combined membership of 1500 out of a total of 4,000 Negro firemen. Operating principally on southern railroads, the present number represents a reduction of approximately 50 percent in the ranks.

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Right of Negroes To Vote Upheld By Florida Court

Tallahassee, Fla., July 27—(AP)—The right of Negroes to vote as Democrats in Florida primary elections was upheld today by the State Supreme Court.

The decision was based squarely, and with little discussion, on a ruling by the Supreme Court of the United States by which Texas Democratic party primaries were opened to Negroes on the theory that a primary is an integral part of an election in which the constitution guarantees all citizens the right to vote.

Justice Rivers Buford wrote the opinion in two companion cases affirming Escambia County Circuit Court orders directing registration Supervisor Ben L. Davis to register R. A. Cromwell and Effau Chavis as Democrats. The decisions were unanimous.

Both opinions dealt almost entirely with technicalities of the procedure used in bringing the cases to court.

Florida law does not specifically prohibit Negro voting in party primaries but leaves to the Democratic Party itself the authority to prescribe qualifications of its members.

For many years, the Democratic Party in Florida has confined its membership to white persons. Negroes always have been able to vote in Republican primaries and to cast their ballots for candidates of their choice in general elections.

A few Negroes in some Florida counties voted in Democratic Party primaries last year after the U. S. Supreme Court had handed down its decision in the Texas case.